

No. 11904

IN THE

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

EDNA D. HEATH, Executrix of the Last Will of
FRED W. HEATH, Deceased, and MYRA C.
KNAPP, Executrix of the Last Will of DANIEL
A. KNAPP, Deceased,

Appellants.

vs.

JOHN N. HELMICK, Trustee of the Estate of ME-
LANIE DOUILLARD WOODD, Bankrupt,

Appellee.

TRANSCRIPT OF RECORD

(In Two Volumes)

VOLUME I

(Pages 1 to 256, Inclusive)

Upon Appeal From the District Court of the United States
for the Southern District of California
Central Division

FILED

JUL 16 1948

PAUL R. O'BRIEN,

No. 11904

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EDNA D. HEATH, Executrix of the Last Will of
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italics; and likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

ERNEST R. UTLEY

417 South Hill Street

Los Angeles 13, Calif.

and

J. GEO. OHANNESON

744 Chamber of Commerce Building

Los Angeles 15, Calif.

For Appellee:

LESLIE S. BOWDEN and

J. N. CLEMENTS

548 South Spring Street

Los Angeles 13, Calif. [1*]

In the District Court of the United States for the
Southern District of California
Central Division

In Bankruptcy No. 44032-B

In the Matter of

MELANIE DOUILLARD WOodd,

Bankrupt.

DEBTOR'S PETITION

To the Honorable, _____, Judge of
the District Court of the United States for the
Southern District of California:

The Petition of Melanie Douillard Woodd, residing at
No. 5255 Virginia Avenue, in the City and County of
Los Angeles, State of California, by occupation a sales-
woman, and employed by Fifth Street Department Store
(or engaged in the business of _____),
respectfully represents:

1. Your petitioner has had her principal place of
business (or has resided, or has had her domicile) at
5255 Virginia Avenue, Los Angeles, California, within
the above judicial district, for a longer portion of the
six months immediately preceding the filing of this peti-
tion than in any other judicial district.

2. Your petitioner owes debts and is willing to sur-
render all her property for the benefit of her creditors,
except such as is exempt by law, and desires to obtain the
benefit of the Act of Congress relating to bankruptcy.

3. The schedule hereto annexed, marked Schedule A,
and verified by your petitioner's oath, contains a full and
true statement of all her debts, and, so far as it is possible

to ascertain, the names and places of residence of her creditors, and such further statements concerning said debts as are required by the provisions of said Act.

4. The schedule hereto annexed, marked Schedule B, and verified by your petitioner's oath, contains an accurate inventory of all her property, real and personal, and such further statements concerning said property as are required by the provisions of said Act.

Wherefore your petitioner prays that she may be adjudged by the court to be a bankrupt within the purview of said Act.

MELANIE DOUILLARD-WOODD
petitioner

EARL F. CRANDELL
Attorney for Petitioner

[Verified.]

[Endorsed]: Filed Aug. 29, 1945. Edmund L. Smith,
Clerk. [2]

SCHEDULE A-3

Creditors Whose Claims Are Unsecured

(N. B.—When the name and residence (or either) of any drawer, maker, endorser, or holder of any bill or note, etc., are unknown, the fact must be stated, and also the name and residence of the last holder known to the debtor. The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property.)

Reference to Ledger or Voucher.—Names of Creditors.—Residences (if unknown, that fact must be stated).—When and where contracted.—Whether claim is contingent, unliquidated or disputed.—Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, etc., and whether contracted as partner or joint contractor with any other person; and, if so, with whom.

Superior Court Action No. 435718, Robert E. Austin, Thomas Higgins, Jr., and J. M. Clements, attorneys, Los Angeles Stock Exchange Building.

| | Amount due or Claimed. Dollars Cents |
|---|--|
| Judgments in favor of Emile A. Douillard | \$2,500.00 |
| Judgment in favor of Frank T. Douillard | 2,500.00 |
| Judgment in favor of Raymond F. Puissegur | 1,250.00 |
| Judgment in favor of Juliette Evans | 1,250.00 |

Superior Court Action No. 450821, Daniel A. Knapp & Fred W. Heath, attorneys, Black Building.

| | |
|----------------------------------|-------------------|
| Judgment in favor of M. L. Hovey | \$4,000.00 |
| Total | <hr/> \$11,500.00 |

Melanie Douillard-Woodd
Petitioner

[Endorsed]: Filed Aug. 29, 1945. Edmund L. Smith,
Clerk. [3]

UNITED STATES DISTRICT COURT
Southern District of California

ORDERS OF ADJUDICATION AND OF
GENERAL REFERENCE

At Los Angeles, in said District, on August 29, 1945.

The respective petitions of each of the petitioners in the proceedings hereinafter mentioned, filed on the respective dates hereinafter indicated, that he be adjudged a bankrupt under the Act of Congress relating to bankruptcy, having been heard and duly considered; and there being no opposition thereto;

It is adjudged that each of said petitioners is a bankrupt under the Act of Congress relating to bankruptcy; and

It is thereupon ordered that the said proceedings be, and they hereby are, referred generally to the referee in bankruptcy of this Court, whose name appears opposite the respective proceedings hereinafter mentioned, to take such further proceedings therein as are required and permitted by said Act, and that each of the said bankrupts shall henceforth attend before said referee and submit to such orders as may be made by him or by a Judge of this Court relating to said bankruptcy.

Number 44,032-B Title of Proceedings Melanie Douillard Woodd Filed 8/29/45 Referee Hubert F. Laugharn, Esq., Los Angeles, Calif.

DAVE W. LING

United States District Judge

[Endorsed]: Filed Aug. 29, 1945. Edmund L. Smith, Clerk. [4]

[Title of District Court and Cause]

PROOF OF CLAIM IN BANKRUPTCY AND POWER OF ATTORNEY

United States of America,
Southern District of California
Central Division—ss.

At Los Angeles, in the above district, on the date set forth in the notarial acknowledgment hereto, came Emile A. Douillard, who being sworn, says:

I.

(A) Individual

(A) That he is the claimant hereinafter designated.

(B) Partnership

(B) That affiant is a member of the ~~co-partnership~~ trading as, hereinafter designated as claimants, consisting of himself and

That said affiant has subscribed the partnership name and is duly authorized by said firm to make, execute and acknowledge this Proof and Claim and Power of Attorney.

(C) Corporation

(C) That affiant is:

(1) Treasurer of claimant corporation, and an officer thereof duly authorized to execute this Proof of Claim and Power of Attorney.

(2) The officer of claimer corporation whose duties most nearly correspond with that of Treasurer, to wit.....and duly authorized to make this Proof and Power and that there is no such office as that of treasurer of said corporation.

(3) Familiar with all the facts and circumstances concerning said claim, in possession of the books of account of said corporation, the person most familiar with this account, and duly authorized to execute this proof of claim and power of attorney; and that this deposition cannot be made by the Treasurer in person because said corporation has no treasurer in the State of California.

II.

That the above named bankrupt was at and before the time of filing of the petition in bankruptcy herein and still is justly and truly indebted to said claimant in the sum of \$1,768.95. That the consideration of said debt is Judgment rendered in the Superior Court of the State of California, in and for the County of Los Angeles in case No. 435718, entered April 25, 1940, in the sum of \$2500.00, together with interest. Credit \$1500.00 May 15, 1943. A copy of said Judgment is hereto attached, as Exhibit "A". That said amount set forth in said Exhibit "A" is justly due and owing. That no part thereof has been paid. That there are no offsets or counterclaims thereto. That deponent has not nor has any person for or on behalf of said claimant, or to this deponent's knowl-

edge or belief, for the use or benefit of said claimant had or received any security for said debt whatever. That no judgment has been rendered therefor or any part thereof, nor has any note or other evidence of said debt been received except such note or evidence of said debt, if any, as is attached to this document.

III.

Said claimant hereby appoints J. M. Clements and Robert E. Austin, attorneys in fact, with full power of substitution, authorizing them or either of them to attend any and all meetings of creditors or adjourned meetings of creditors of the bankrupt in any court of bankruptcy or before any referee in bankruptcy or elsewhere and for said claimant and in the name of said claimant to vote for or against any proposal or resolution that may be submitted in reference to the estate of the above-named bankrupt and in the choice of Trustee or Trustees. To accept or refuse any composition in or out of bankruptcy proposed by said bankrupt. To receive and collect any payment of dividends or fees or moneys due said claimant under any composition or otherwise and in general to take such action, and do such acts, execute such consents and documents for such claimant as said attorneys in fact may deem best, as fully as such claimant could do if personally present, and said claimant hereby revokes all other powers of attorney by him given herein.

EMILE A. DOUILLARD

~~Treasurer, Partner or Individual~~

NOTARIAL ACKNOWLEDGMENT

United States of America
State of California
County of Los Angeles—ss.

On Sept. 14, 1945, before me appeared the above named affiant and subscriber to me personally known, who being duly sworn did say that he is

- (A) the claimant herein,
- (B) a member of the partnership above named, duly authorized to execute on behalf of claimant,
- (C) an officer of the corporation above named duly authorized to execute on behalf of said corporation the foregoing Proof of Claim and Power of Attorney and acknowledged the execution of the foregoing on behalf of said claimant.

Subscribed and sworn to before me, and acknowledged by the subscriber on behalf of claimant.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year in my certificate above written.

(Seal)

ROBERT E. AUSTIN

Notary Public in and for the County of Los Angeles,
State of California

Attach copies of invoices or original notes. Mere Statements are not sufficient.

If a corporation the treasurer must sign if it has one. [5]

[Verified.]

EXHIBIT "A"

In the Superior Court of the State of California in and
for the County of Los Angeles

No. 435718

Emile A. Douillard, Frank T. Douillard, Raymond F.
Puissegur, Juliette Evans, Plaintiffs, v. Melanie D.
Woodd, Defendant.

JUDGMENT

The above cause came on to be heard before the Honorable Thurmond Clarke, judge of the above entitled Court, sitting without a jury in Department 6 of the above court on the 30th day of January, 1940, and the plaintiffs having appeared and being represented by their attorneys, Thomas Higgins, Jr. and J. M. Clements, and defendant having appeared and being represented by her attorneys, Fred W. Heath and Daniel A. Knapp, and the cause having been submitted to the Court for decision on March 18, 1940, and the Court having made its findings of fact and conclusions of law,

It Is Hereby Ordered, Adjudged, and Decreed that the plaintiffs have judgment against the defendant as follows:

That the plaintiff, Emile A. Douillard, do have and recover from the defendant, Melanie D. Woodd, the sum of \$2500. That the plaintiff, Frank T. Douillard, do have and recover from the defendant the sum of \$2500. That the plaintiff, Raymond F. Puissegur, do have and recover from the defendant, the sum of \$1250. That the plaintiff, Juliette Evans, do have and recover from the defendant, the sum of \$1250, and the defendants do have

and recover from the plaintiffs their costs of suit in the sum of \$.....

Let judgment be entered accordingly:

Dated, 1940.

.....
Judge

[Endorsed]: Filed Sep. 17, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sep. 16, 1946. Edmund L. Smith, Clerk. [6]

[Title of District Court and Cause]

PROOF OF CLAIM IN BANKRUPTCY AND
POWER OF ATTORNEY

United States of America,
Southern District of California
Central Division—ss.

At Los Angeles, in the above district, on the date set forth in the notarial acknowledgment hereto, came Frank T. Douillard, who being sworn, says:

I.

(A) Individual

(A) That he is the claimant hereinafter designated.

(B) Partnership

* * * * *

(C) Corporation

* * * * *

II.

That the above named bankrupt was at and before the time of filing of the petition in bankruptcy herein and still is justly and truly indebted to said claimant in the sum of \$3,443.05. That the consideration of said debt is Judgment rendered in the Superior Court of the State of California, in and for the County of Los Angeles in case No. 435718, entered April 25, 1940, in the sum of \$2500.00, together with interest from April 25, 1940 to Sept. 14, 1945 at 7%, amounting to \$943.05. A copy of said Judgment is attached hereto, marked Exhibit "A". That said amount set forth is justly due and owing. That no part thereof has been paid. That there are no offsets or counterclaims thereto. That deponent has not nor has any person for or on behalf of said claimant, or to this deponent's knowledge or belief, for the use or benefit of said claimant had or received any security for said debt whatever. That no judgment has been rendered therefor or any part thereof, nor has any note or other evidence of said debt been received except such note or evidence of said debt, if any, as is attached to this document.

III.

Said claimant hereby appoints J. M. Clements and Robert E. Austin, attorneys in fact, with full power of substitution, authorizing them or either of them to attend any and all meetings of creditors or adjourned meetings of creditors of the bankrupt in any court of bankruptcy or before any referee in bankruptcy or elsewhere and for said claimant and in the name of said claimant to vote for or against any proposal or resolution that may be submitted in reference to the estate of the above-named bankrupt and in the choice of Trustee or Trustees. To accept or refuse any composition in or out of bank-

ruptcy proposed by said bankrupt. To receive and collect any payment of dividends or fees or moneys due said claimant under any composition or otherwise and in general to take such action, and do such acts, execute such consents and documents for such claimant as said attorneys in fact may deem best, as fully as such claimant could do if personally present, and said claimant hereby revokes all other powers of attorney by him given herein.

FRANK T. DOUILLARD

~~Treasurer, Partner or Individual~~

NOTARIAL ACKNOWLEDGMENT

United States of America

State of California

County of Los Angeles—ss.

On Sept. 14, 1945, before me appeared the above named affiant and subscriber to me personally known, who being duly sworn did say that he is

(A) the claimant herein,

(B) a member of the partnership above named, duly authorized to execute on behalf of claimant,

(C) an officer of the corporation above named duly authorized to execute on behalf of said corporation the foregoing Proof of Claim and Power of Attorney and acknowledged the execution of the foregoing on behalf of said claimant.

Subscribed and sworn to before me, and acknowledged by the subscriber on behalf of claimant.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year in my certificate above written.

(Seal)

ROBERT E. AUSTIN

Notary Public in and for the County of Los Angeles,
State of California

Attach copies of invoices or original notes. Mere Statements are not sufficient.

If a corporation the treasurer must sign if it has one. [7]

[Verified.]

EXHIBIT "A"

* * * * *

[Note: Exhibit "A" attached hereto is a judgment and is identical to Exhibit "A" appearing at pages 10 and 11 of this Transcript and is therefore not reproduced at this point.]

[Endorsed]: Filed Sep. 17, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sep. 16, 1946. Edmund L. Smith, Clerk. [8]

[Title of District Court and Cause]

PROOF OF CLAIM IN BANKRUPTCY AND
POWER OF ATTORNEY

United States of America,
Southern District of California
Central Division—ss.

At Los Angeles, in the above district, on the date
set forth in the notarial acknowledgment hereto, came
Juliette Evans, who being sworn, says:

I.

(A) Individual

(A) That she is the claimant hereinafter designated.

(B) Partnership

* * * * *

(C) Corporation

* * * * *

II.

That the above named bankrupt was at and before the
time of filing of the petition in bankruptcy herein and
still is justly and truly indebted to said claimant in the
sum of \$1,721.52. That the consideration of said debt
is Judgment rendered in the Superior Court of the State
of California, in and for the County of Los Angeles in
case No. 435718, entered April 25, 1940, in the sum of
\$1250.00, together with interest from April 25, 1940
to September 14, 1945 at 7%, amounting to \$471.52. A
copy of said Judgment is attached hereto marked Exhibit
“A”. That said amount set forth is justly due and owing.
That no part thereof has been paid. That there are no

offsets or counterclaims thereto. That deponent has not nor has any person for or on behalf of said claimant, or to this deponent's knowledge or belief, for the use or benefit of said claimant had or received any security for said debt whatever. That no judgment has been rendered therefor or any part thereof, nor has any note or other evidence of said debt been received except such note or evidence of said debt, if any, as is attached to this document.

III.

Said claimant hereby appoints J. M. Clements and Robert E. Austin, attorneys in fact, with full power of substitution, authorizing them or either of them to attend any and all meetings of creditors or adjourned meetings of creditors of the bankrupt in any court of bankruptcy or before any referee in bankruptcy or elsewhere and for said claimant and in the name of said claimant to vote for or against any proposal or resolution that may be submitted in reference to the estate of the above-named bankrupt and in the choice of Trustee or Trustees. To accept or refuse any composition in or out of bankruptcy proposed by said bankrupt. To receive and collect any payment of dividends or fees or moneys due said claimant under any composition or otherwise and in general to take such action, and do such acts, execute such consents and documents for such claimant as said attorneys in fact may deem best, as fully as such claimant could do if personally present, and said claimant hereby revokes all other powers of attorney by him given herein.

JULIETTE EVANS

~~Treasurer, Partner or Individual~~

NOTARIAL ACKNOWLEDGMENT

United States of America
State of California
County of Los Angeles—ss.

On Sept. 14, 1945, before me appeared the above named affiant and subscriber to me personally known, who being duly sworn did say that he is

- (A) the claimant herein,
- (B) a member of the partnership above named, duly authorized to execute on behalf of claimant,
- (C) an officer of the corporation above named duly authorized to execute on behalf of said corporation the foregoing Proof of Claim and Power of Attorney and acknowledged the execution of the foregoing on behalf of said claimant.

Subscribed and sworn to before me, and acknowledged by the subscriber on behalf of claimant.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year in my certificate above written.

(Seal) ROBERT E. AUSTIN

Notary Public in and for the County of Los Angeles,
State of California

Attach copies of invoices or original notes. Mere Statements are not sufficient.

If a corporation the treasurer must sign if it has one. [9]

[Verified.]

EXHIBIT "A"

* * * * *

[Note: Exhibit "A" attached hereto is a judgment and is identical to Exhibit "A" appearing at pages 10 and 11 of this Transcript and is therefore not reproduced at this point.]

[Endorsed]: Filed Sep. 17, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sep. 16, 1946. Edmund L. Smith, Clerk. [10]

[Title of District Court and Cause]

PROOF OF CLAIM IN BANKRUPTCY AND
POWER OF ATTORNEY

United States of America,
Southern District of California
Central Division—ss.

At Los Angeles, in the above district, on the date set forth in the notarial acknowledgment hereto, came Raymond F. Puissegur, who being sworn, says:

I.

(A) Individual

(A) That he is the claimant hereinafter designated.

(B) Partnership

* * * * *

(C) Corporation

* * * * *

II.

That the above named bankrupt was at and before the time of filing of the petition in bankruptcy herein and still is justly and truly indebted to said claimant in the sum of \$862.73. That the consideration of said debt is Judgment rendered in the Superior Court of the State of California, in and for the County of Los Angeles in case No. 435718, entered April 25, 1940, in the sum of \$1250.00, together with interest. Credit \$650.00 October 17, 1940. A copy of said Judgment is hereto attached as Exhibit "A". That said amount set forth in said Exhibit "A" is justly due and owing. That no part thereof has been paid. That there are no offsets or counterclaims thereto. That deponent has not nor has any person for or on behalf of said claimant, or to this deponent's knowledge or belief, for the use or benefit of said claimant had or received any security for said debt whatever. That no judgment has been rendered therefor or any part thereof, nor has any note or other evidence of said debt been received except such note or evidence of said debt, if any, as is attached to this document.

III.

Said claimant hereby appoints J. M. Clements and Robert E. Austin, attorneys in fact, with full power of substitution, authorizing them or either of them to attend any and all meetings of creditors or adjourned meetings of creditors of the bankrupt in any court of bankruptcy or before any referee in bankruptcy or elsewhere and for said claimant and in the name of said claimant to vote for or against any proposal or resolution that may be submitted in reference to the estate of the above-named bankrupt and in the choice of Trustee or Trustees. To

accept or refuse any composition in or out of bankruptcy proposed by said bankrupt. To receive and collect any payment of dividends or fees or moneys due said claimant under any composition or otherwise and in general to take such action, and do such acts, execute such consents and documents for such claimant as said attorneys in fact may deem best, as fully as such claimant could do if personally present, and said claimant hereby revokes all other powers of attorney by him given herein.

RAYMOND F. PUISSEGUR

~~Treasurer, Partner or Individual~~

NOTARIAL ACKNOWLEDGMENT

United States of America

State of California

County of Los Angeles—ss.

On Sept. 14, 1945, before me appeared the above named affiant and subscriber to me personally known, who being duly sworn did say that he is

- (A) the claimant herein,
- (B) a member of the partnership above named, duly authorized to execute on behalf of claimant,
- (C) an officer of the corporation above named duly authorized to execute on behalf of said corporation the foregoing Proof of Claim and Power of Attorney and acknowledged the execution of the foregoing on behalf of said claimant.

Subscribed and sworn to before me, and acknowledged by the subscriber on behalf of claimant.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal, the day and year in my certificate above written.

(Seal)

ROBERT E. AUSTIN

Notary Public in and for the County of Los Angeles,
State of California

Attach copies of invoices or original notes. Mere Statements are not sufficient.

If a corporation the treasurer must sign if it has one. [11]

[Verified.]

EXHIBIT "A"

* * * * *

[Note: Exhibit "A" attached hereto is a judgment and is identical to Exhibit "A" appearing at pages 10 and 11 of this Transcript and is therefore not reproduced at this point.]

[Endorsed]: Filed Sep. 17, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sep. 16, 1946. Edmund L. Smith, Clerk. [12]

[Title of District Court and Cause]

REFEREE'S CERTIFICATE ON REVIEW

To the Honorable Campbell E. Beaumont, Judge of the United States District Court for the Southern District of California, Central Division:

I, Hubert F. Laugharn, to whom the within proceeding has been referred, as Referee hereby certify as follows:

On April 26, 1947, I made an Order Revoking the discharge of the bankrupt and on May 3, 1947, I made an Order that certain real property of record in the name of the bankrupt was an asset of the bankrupt estate.

The bankrupt has filed a Petition for Review of the Order Revoking her discharge and she has also filed a Petition for Review of the Order of May 3, 1947, pertaining to the real property.

Edna D. Heath, as Executrix of the last will of Frederick W. Heath, deceased, and Daniel A. Knapp, have filed their joint Petition to Review the Order of May 3, 1947.

The proceedings were tried together upon the same evidence and for the convenience of the Judge and also the parties, I am combining the Certificates of Review.

The questions presented are:

Should the discharge to the bankrupt be set aside and [13] revoked under Section 15 of the Bankruptcy Act?

And, is the real property which now stands of record in the name of the bankrupt, an asset of the bankrupt estate?

At the conclusion of the extended trial I prepared and filed herein a memorandum opinion, dated March 13, 1947, the same is appended hereto as my summary of the evidence, and reference is made thereto and I will not take the space here to reiterate the statements therein contained.

The case is replete with inconsistencies. The bankrupt claims that the real property which is worth many thousands of dollars, is her own property and not an asset of her bankrupt estate. She re-acquired, from her nephew, title to it without any consideration, a few days after I originally closed her former bankruptcy proceeding. Her nephew gave Mr. Hovey \$500.00 for the title.

This amount I held was actually paid to Mr. Hovey as his trustee's fees for holding the title to the property for Knapp and Heath, former attorneys for the bankrupt, until, under an agreement, the amounts owing them were paid. Upon payment of Mr. Hovey's trustees' fees (the agreed amounts having been paid to the attorneys), Mr. Hovey released the property.

The testimony of Hovey, Douillard and the bankrupt was so inconsistent and contradictory as to cause the Referee to doubt even their simplest declarations. Their manner and disposition on the witness stand further confirmed their evasive actions throughout the hearings. It was only through providential chance that the fraud of the bankrupt was discovered by the creditors and the former trustee.

In compliance with the provisions of Section 39a(8),
I attach to this Certificate the following:

- (1) Order Revoking Discharge.
- (2) Memorandum Opinion and Direction to Prepare Findings of Fact and Orders. [14]
- (3) Findings of Fact and Order re Real Property, dated May 3, 1947.
- (4) Petition of the bankrupt for Review of Order Revoking Discharge of April 26, 1947.
- (5) Petition of the bankrupt for Review of Findings of Fact and Order made May 3, 1947, vesting Real Property.
- (6) Petition by Edna D. Heath as Executrix of last will of Frederick W. Heath, deceased, and Daniel A. Knapp, for Review of Referee's Order of May 3, 1947.
- (7) Transcripts: Volumes I to IV inclusive.
- (8) Exhibits:
Respondent: Exhibits 1, 2, 3.
Trustee's: Exhibits 1, 2, 3, and 4.
Bankrupt's Exhibit A.

Dated: June 18, 1947.

Respectfully submitted,

HUBERT F. LAUGHARN

Referee in Bankruptcy

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith,
Clerk. [15]

[Title of District Court and Cause]

REFEREE'S SUPPLEMENTAL CERTIFICATE ON
REVIEW

To the Honorable Judges of the Above Entitled Court:

I, David B. Head, Referee in Bankruptcy, hereby supplement the Referee's Certificate on Review heretofore filed in the above entitled matter, by adding thereto the following documents, to-wit:

1. Petition to reopen estate, dated December 4, 1946.
2. Order reopening estate, dated December 4, 1946.
3. Answer of Edna D. Heath as Executrix of Last Will of Fred W. Heath, deceased, and Daniel A. Knapp to order to show cause and petition, filed January 16, 1947.
4. Objections to findings of fact by Daniel A. Knapp and Edna D. Heath as Executrix of the Last Will of Fred W. Heath, deceased.
5. The following exhibits:

Date Rec'd. No. Description

Trustee's

| | | |
|---------|---|--|
| 10/3/45 | 1 | Photostatic copy of signature card of bankrupt's term account [23] at Security Bank, also ledger card. |
| 4/5/46 | 1 | Statement of Estate of Emily S. Donahue, Dec. |
| " | 2 | Receipt of Melanie D. Woodd from Estate of Emily S. Donahue, Dec. |

- | | | |
|----------|---|--|
| 12/23/46 | 3 | Photostat copies of escrow, instructions, checks, etc. 1-2905-D. |
| 1/2/48 | 1 | Photostatic copy of Letter from Fred W. Heath to Edna D. Heath, dated April 22, 1943 (Will). |
| 2/6/48 | 1 | Photostatic copy of Grant Deed M. L. Hovey and Anna Hovey to Fred W. Heath. |

Bankrupt's

- | | | |
|--------|---|--|
| 4/5/46 | 1 | Findings of Fact and Conclusions of law dated Apr. 1944. Douillard v. Smith et al No. 486331 Superior Court. |
|--------|---|--|

Dated this 12 day of April, 1948.

DAVID B. HEAD

Referee in Bankruptcy

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [24]

[Title of District Court and Cause]

PETITION FOR ORDER TO SHOW CAUSE

The petition of John N. Helmick, respectfully shows:

I.

That he is the duly appointed, qualified and acting Trustee of the above named bankrupt.

II.

That part of the assets belonging to this estate consist of a certain piece of real property located in the City of Los Angeles, County of Los Angeles, State of California, and described as follows:

The South 108 feet of Lot 8 of the Zahn Tract, in the City of Los Angeles, as per map recorded in Book 12, Page 127 of Maps, in the office of the County Recorder of said County.

III.

That your petitioner is informed and believes and therefore alleges that Security-First Nat'l Bank of Los Angeles, [29] Sixth & Spring Street branch, claim a lien on said property by virtue of a Trust Deed executed to secure a certain indebtedness the exact amount due thereon, and the validity of said lien being at this time unknown to your petitioner.

IV.

That Edna D. Heath, is the duly appointed, acting and qualified executrix of the estate of Fred W. Heath, deceased.

V.

That M. L. Hovey, Anna L. Hovey, Louis Alfred Douillard, Sr., Edna D. Heath, as executrix of the estate of Fred W. Heath, deceased, Daniel A. Knapp, and Melanie D. Woodd, the bankrupt herein, claim an interest in and to said real property, which your petitioner alleges to be without foundation and void.

Wherefore your petitioner prays that an Order to Show Cause issue out of the above entitled Court, ordering and directing the Respondents herein to show cause if any they have on a day certain why their claims and each of them should not be adjudged to be void as against said real property, and for an Order declaring said real property to be an asset of this bankrupt estate.

JOHN L. HELMICK
Trustee

LESLIE S. BOWDEN and J. M. CLEMENTS

By Leslie S. Bowden

Attorneys for Trustee [30]

[Verified.]

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith,
Clerk. [31]

[Title of District Court and Cause]

ORDER TO SHOW CAUSE

Upon reading and filing the verified petition of John N. Helmick, Trustee of the estate of the above named bankrupt for an Order adjudging certain liens against the real property described in the petition to be void, and good cause appearing therefor:

It is Hereby Ordered that Security-First Nat'l Bank of Los Angeles, M. L. Hovey, Anna L. Hovey, Louis Alfred Douillard, Sr., Edna D. Heath, as executrix of the estate of Fred W. Heath, deceased, Daniel A. Knapp, and Melanie D. Woodd, the bankrupt herein, be and appear before the undersigned Referee in Bankruptcy, at Room 343 Federal Building, at Los Angeles, California, on the 20 day of January, 1947, at the hour of 10 A. M. thereof, then and there to show cause why the prayer of the Trustee's petition should not be granted.

Dated: Los Angeles, Calif., this 31 day of December, 1946.

HUBERT F. LAUGHARN

Referee in Bankruptcy

[Endorsed]: Filed Dec. 31, 1946. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith,
Clerk. [32]

[Title of District Court and Cause]

ANSWER OF EDNA D. HEATH, AS EXECUTRIX
OF THE ESTATE OF FRED W. HEATH, DE-
CEASED, AND DANIEL A. KNAPP TO ORDER
TO SHOW CAUSE AND PETITION

Come now Edna D. Heath, as Executrix of the Estate of Fred W. Heath, Deceased, and Daniel A. Knapp, and by way of answering the petition and order to show cause filed December 31st, 1946, deny, allege and admit as follows:

I.

Deny that any liens attach to the real property described in the said petition for order to show cause in favor of the creditors of the above named bankrupt.

II.

Allege that at all times mentioned herein the said Daniel A. Knapp and Fred W. Heath during his lifetime were attorneys at law, duly licensed to practice law in the State of California, having offices in the City of Los Angeles, County of Los Angeles, State of California. [33]

III.

Allege that Fred W. Heath had for many years prior to April 10, 1940 been the attorney for the said Melanie D. Woodd in many matters, inclusive of an action entitled "Emile A. Douillard et al., Plaintiffs, vs. Melanie D. Woodd, Defendant," in the Superior Court of the State of California, in and for the County of Los Angeles, numbered therein 435718 then pending, for which services he then and there claimed a balance due and owing from said Melanie D. Woodd of \$4500.00.

IV.

Allege that the said Daniel A. Knapp had likewise been the attorney for Melanie D. Woodd in said action No. 435718 in said Superior Court then pending and claimed a balance due and owing from said Melanie D. Woodd in the sum of \$2500.00.

V.

That on or about April 10th, 1940 said Fred W. Heath and Daniel A. Knapp had a conference with said Melanie D. Woodd, whereat they set forth their said claims and requested payment, whereat said Melanie D. Woodd declared her indebtedness was not more than \$4000.00, and whereat said Daniel A. Knapp and Fred W. Heath declared they would bring a friendly suit against her, seeking a judgment from said Superior Court declarative of such sums as might be due to them for their services aforesaid, the said suit to be brought in the name of M. L. Hovey who was to act as their agent, and not otherwise; that on April 11, 1940 said action entitled M. L. Hovey, Plaintiff, vs. Melanie D. Woodd, Defendant, was filed in said Superior Court and numbered therein 450821.

VI.

That at once and on or about April 11, 1940 said Fred W. Heath and Daniel A. Knapp in the name of their agent, M. L. Hovey, aforesaid, in said action numbered 450821, caused a writ of attachment to be issued and served upon Melanie D. Woodd, posted, recorded etc., covering the South 108 ft. of Zahn Tract as per map recorded in Book 12, p. 127 of Maps, [34] in the office of the County Recorder of said Los Angeles County, generally known as 5255 Virginia Avenue, Los Angeles,

California, and also Lot 11, Tract 314, as recorded in Book 14, pages 122 and 123 of Maps in the office of the County Recorder of said County; generally known as 1255 S. Glendale Ave. Glendale, California.

VII.

That thereafter and on or about the 3rd day of June, 1941, said action No. 450821 was brought to trial and judgment was entered therein on July 8th, 1941, awarding to plaintiff M. L. Hovey, acting as the agent of the said Fred W. Heath and Daniel A. Knapp as aforesaid, the sum of \$4000.00, with costs of \$20.25.

VIII.

That on or about April 12th, 1943, after execution duly issued and levy duly made, having given notice of the time and place of such sale, by advertising the same according to law, the Sheriff of the said County of Los Angeles did sell the said real property described as the South 108 feet of Lot 8 of the Zahn Tract, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 12, page 127 of Maps in the office of the County Recorder of said County, at public vendue; that the highest bidder at said sale was M. L. Hovey, then and there acting as the agent of Daniel A. Knapp and Fred W. Heath aforesaid, his said bid being in the sum of \$1775.00, and said sum was credited to said judgment of \$4000.00; that a Sheriff's deed was executed to the said M. L. Hovey then and there acting as agent and trustee of said Fred W. Heath and Daniel A. Knapp on April 18th, 1944 and recorded November 28th, 1944, in Book 21513 at page 36 of Official Records in the office of the County Recorder of Los Angeles County, and said deed was delivered to the said Fred W. Heath

who during his lifetime retained possession thereof, after which it came into the possession of Daniel A. Knapp and Edna D. Heath as Executrix of the Estate of Fred W. Heath, deceased. [35]

That on or about September 8th, 1942, after execution duly issued and levy duly made, having given notice of the time and place of such sale, by advertising the same according to law, the Sheriff of the said County of Los Angeles did sell the said real property described as being in the County of Los Angeles, State of California, particularly described as Lot 11, Tract 314, as per map recorded in Book 14, pages 122 and 123 of Maps, Los Angeles County Records, at public vendue; that the highest bidder at said sale was M. L. Hovey, then and there acting as the agent of Daniel A. Knapp and Fred W. Heath aforesaid, his said bid being in the sum of \$1250.00, and said sum was credited to said judgment of \$4000.00; that a Sheriff's deed was executed to the said M. L. Hovey then and there acting as the agent and trustee of said Fred W. Heath and Daniel A. Knapp, on April 18th, 1944 and recorded April 19, 1945 in Book 21922, at page 71 of Official Records in the office of the County Recorder of Los Angeles County, and said deed was delivered to the said Fred W. Heath who during his lifetime retained possession thereof, after which it came into the possession of Daniel A. Knapp and Edna D. Heath as Executrix of the Estate of Fred W. Heath, deceased.

IX.

That on or about the 15th day of April, 1940 the said M. L. Hovey by an instrument in writing assigned all of his right, title and interest in and to the claim set forth in said action No. 450821 and any judgment recovered

therein, to Fred W. Heath and Myra C. Knapp in proportions of respectively 5 and 3, and on or about April 20th, 1940, the said Myra C. Knapp assigned all of her right, title and interest aforesaid to the said Daniel A. Knapp who ever since has been and now is the sole owner thereof.

X.

That on September 8th, 1945, the said Fred W. Heath died and thereafter and in due season said Edna D. Heath became the duly [36] qualified and acting Executrix of his last will and property, and as such claims the right of the possession to and ownership of an undivided five-eighths interest in the said properties, save as hereinafter set forth.

X.

That on or about the 28th day of January, 1946 the said M. L. Hovey, after consultation with and being duly authorized so to do, by the said Daniel A. Knapp and Edna D. Heath, sold that certain real property in the County of Los Angeles, State of California described as Lot 11, Tract 314 aforesaid for the net sum of \$2400.00, subject to distribution between said Edna D. Heath as said Executrix and said Daniel A. Knapp.

XI.

That from and after the said Sheriff's sale of said property known as the South 108 feet of Lot 8 of the Zahn Tract, the said M. L. Hovey was permitted to retain the legal title thereto as agent and trustee of said Daniel A. Knapp and Edna D. Heath as aforesaid, to receive the rents therefrom and to pay the taxes, installment payments on the encumbrance etc. thereon, and so did until on or about September 10, 1946.

XII.

That at all times herein mentioned the said Melanie D. Woodd knew that the said M. L. Hovey had no right, title or interest in said property save as the agent and trustee of the said Daniel A. Knapp and Edna D. Heath as Executrix of the estate of Fred W. Heath, deceased.

XIII.

That on or about September 11, 1946 the said M. L. Hovey executed a grant deed in form to one Louis Alfred Douillard, Sr., as grantee, for the sum of \$500.00; that the said Louis Alfred Douillard, Sr., at the time of the execution of said grant deed well knew that the said property at said time had a net value in [37] excess of \$5500.00 and well knew that the said M. L. Hovey was the agent and trustee therefor and that the said deed was intended to be a conveyance of a trustee's interest only by the said M. L. Hovey, and said consideration was entirely based solely on the assumed value of said trustee's interest.

XIV.

That forthwith and on or about September 12th, 1946 the said Louis Alfred Douillard, Sr., allegedly by reason of love and affection executed his grant deed to the said Melanie D. Woodd who accepted the same with a full knowledge of the fact that the full equitable title in said real property was in said Edna D. Heath as aforesaid and Daniel A. Knapp, and that the said M. L. Hovey at no time had or conveyed other than a trustee's interest therein.

XV.

That hitherto, to wit: on or about August 29th, 1945, the said Melanie D. Woodd filed herein her petition in

bankruptcy; that as of said date, or 90 days prior thereto, the said Melanie D. Woodd was not the owner, nor had any right, title or interest, within the terms of Section 70 of the National Bankruptcy Act, or otherwise, of or in said real property situated in the County of Los Angeles, State of California, described as the South 108 feet of Lot 8 of the Zahn Tract as recorded in Book 12, page—127 of Maps, Los Angeles County Records, nor of said real property described as Lot 11 in Tract 314 as recorded in Book 14 pages 122-123 of Maps, Records of said County of Los Angeles, nor of any of the money, profits, rentals or derivatives from said properties, or either of them. [38]

Wherefore, said Daniel A. Knapp, and Edna D. Heath, as Executrix of the Estate of Fred W. Heath, deceased, pray that this Court may find and adjudge as follows:

1. That neither of the real properties hereinbefore described nor the real property described in the petition herein filed December 31, 1946, are properties belonging to the estate in bankruptcy of said Melanie D. Woodd;

2. That the said Fred W. Heath and Daniel A. Knapp as attorneys at law employing M. L. Hovey as their agent and trustee, did in his name sue the said Melanie D. Woodd in action No. 450821 in said Superior Court for their fees due and owing from her and judgment was had therein for \$4000.00 on or about July 8th, 1941;

3. That on or about the 11th day of April, 1940 said Daniel A. Knapp and Fred W. Heath did cause writs of attachment to be levied against the said properties and served, posted and recorded in accordance with law, and by virtue thereof did thereafter cause writs of execution to issue and said properties to be levied upon and sold

at public auction for the satisfaction of said judgment of July 8th, 1941;

4. That said sales were had in the manner and form provided by the Statutes of the State of California; that the highest bidder for said Lot 11, Tract 314 was M. L. Hovey, acting as Trustee for the said Fred W. Heath and Daniel A. Knapp, bidding \$1250.00 charged against said judgment; that the highest bidder for said South 108 feet of Lot 8 of the Zahn Tract was said M. L. Hovey acting as Trustee for the said Fred W. Heath and Daniel A. Knapp bidding \$1775.00, charged against said judgment;

5. That on or about September 8th, 1945 said Fred W. Heath died and the said Edna D. Heath in due season became and now is the duly qualified and acting Executrix of his last will and testament;

6. That on or about January 28th, 1946 at the behest and with the approval of the said Daniel A. Knapp and Edna D. Heath as [39] such Executrix, the said M. L. Hovey sold said Lot 11 of Tract 314 for the net sum of \$2400.00, to be held by him to and for the credit of said Daniel A. Knapp and Edna D. Heath as aforesaid;

7. That on or about September 11th, 1946, without the knowledge or consent of Daniel A. Knapp and Edna D. Heath, the said M. L. Hovey executed a grant deed of said South 108 feet of Lot 8 of the Zahn Tract to one Louis Alfred Douillard, Sr., for a consideration of \$500.00; that the said Louis Alfred Douillard, Sr., knew the said \$500.00 represented but a fraction of the actual and reasonable value of the said property, and at said time and place he knew the said M. L. Hovey had the bare legal title thereto and that he was purchasing a

trustee's interest therein only; that on or about September 12th, 1946 for no cash consideration the said Louis Alfred Douillard, Sr., executed his grant deed thereof to Melanie D. Woodd who, from and ever since said April 11th, 1940, or thereabout, knew the relationship of the said M. L. Hovey to the said Fred W. Heath and Daniel A. Knapp was that of agent and trustee, and knew that on September 12th, 1946 he held a trustee's title to said land only, and that the equitable ownership therein was solely in Edna D. Heath as Executrix of the Estate of Fred W. Heath, deceased, and Daniel A. Knapp; that the said Melanie D. Woodd now holds the interest in said property to wit: 'The South 108 feet of Lot 8 of the Zahn Tract, formerly held by said M. L. Hovey, as Trustee, and no more; and

Said Daniel A. Knapp and Edna D. Heath as such Executrix pray for such other and further relief herein as the Court may deem fit and proper in the premises.

DANIEL A. KNAPP

Attorney for Edna D. Heath, as Executrix
of Estate of Fred W. Heath, Deceased,
and In Pro Per [40]

[Verified.]

[Affidavit of Service by Mail.]

[Endorsed]: Filed Jan. 16, 1947. Hubert F. Laugharn,
Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith,
Clerk. [42]

[Title of District Court and Cause]

MEMORANDUM OPINION AND DIRECTION TO
PREPARE FINDINGS OF FACT AND OR-
DERS

On July 3, 1946, I made an order overruling the Trustee's objections to the discharge of the bankrupt and granted her a discharge. On September 10, 1946, the case was closed.

Throughout the former proceeding, and particularly at the time of the granting of the discharge, the Trustee, although he did not review the said order, strenuously insisted that the bankrupt had an interest in certain real property held in the name of one M. L. Hovey, a chiropracter, and of whom the bankrupt was a patient. The Trustee in his argument prophesied that as soon as the discharge was granted the bankrupt would again come into the full enjoyment of the property which the said Trustee maintained had a value of from \$10,000 to \$15,000.

These proceedings were reopened on December 4, 1946 for purposes of further administration. John N. Helmick was elected Trustee and the said Trustee has filed herein a petition to revoke the discharge and a petition upon which an order to show cause was issued requiring the bankrupt and others to show cause why the real property in question should not be considered an asset of the within bankrupt estate.

In the former proceedings I made extensive findings supporting the contention of the bankrupt that she had no interest in the real property and that the same was held by M. L. Hovey as Trustee for Heath and Knapp. How-

ever three separate instances which have since come to light may show that I was wrong in the [43] first determination herein. They are (1) serious conflicts between the evidence herein at the present time and evidence in the former administration, (2) a hidden secret revealed by a dead man's will, and (3) stranger still, a shooting by the son of the bankrupt's nephew which frightened the former bankrupt into a belief that a judgment might result against the nephew, and, motivated by the said fear, she thereupon recorded a secret deed which reconveyed the property in question back to her.

The former Trustee and the creditors (who, to say the least, were not satisfied with the order of discharge, and who had apparently been watching the County Recorder's filings after the close of the bankrupt estate) promptly picked up the filing of the deed and thereafter the within estate was reopened.

To go back to the start of the bankrupt's troubles, we find that she inherited a substantial amount from the estate of a relative and she also received administratrix' fees therefrom of approximately \$1500. During most of the period she has been working and has had only herself to support. The four creditors herein, with claims totalling \$7500, were heirs of the said probate estate and maintained that the bankrupt violated an agreement for distribution of the estate. They filed suit in the Superior Court against the bankrupt. Heath and Knapp were employed to defend her. At the conclusion of the trial and after there was an indication by the trial judge that judgment should be for the claimants, the said attorneys representing the bankrupt immediately, and before the signing of the judgment, filed against their client (whom they nevertheless continued to represent) an

action to collect their fees for representing the bankrupt as defendant in the \$7500 action. The record shows that their demand for \$7000 fees was by them reduced without a contested trial to \$4000 and a judgment in that amount recovered. They then caused prior execution to be levied upon the assets of the bankrupt ahead of the creditors herein [44] including the real property with which we are here concerned.

The said claims of Heath and Knapp and Hovey were contested in the state court by the within creditors without success. The contentions there made by Heath, Knapp and Hovey that the within bankrupt had no interest in the real property, with which we are now concerned, were supported by the court. At about the time of the so-called friendly suit for attorney fees, which resulted in the \$4000 judgment, the bankrupt had ample funds and assets to pay the same; she had approximately \$6000 cash on deposit in a local bank.

While at the former hearings counsel for the trustee and counsel for the creditors pointed out a large number of suspicious circumstances, I nevertheless did not feel that the Trustee had met the burden of proof cast upon him sufficiently to support his contention that the real property which had been continuously in her possession since its first purchase was in fact at the time of her bankruptcy her property and therefore an asset of her bankrupt estate.

After hearing the present testimony, I now see my jurisdiction and duty as Referee herein quite clearly with respect to that portion of the hearing regarding the revocation of discharge. I granted the discharge of the bankrupt heretofore. Now under Section 15 the Trustee maintains that he has shown that the discharge should be

revoked because it was obtained through the subsequently discovered fraud of the bankrupt. In the first instance the Referee shall, under Section 14(c), grant the discharge unless satisfied that the bankrupt has committed an act which will bar his discharge. I was not satisfied at that time that the bankrupt had committed the act which would bar her discharge. Now, however, I am satisfied, and it further appears, that the actual evidence was discovered by the Trustee and creditors after the discharge was granted and that they are not guilty of laches. [45]

As to the ~~former~~ jurisdiction and ability of the court to determine that the real property, title to which is now of record in the bankrupt (who is now before the court in her own bankruptcy proceeding), is an asset of this estate and should be administered herein, I will summarize the evidence before stating my views thereon.

In the first administration herein it was the contention of the bankrupt, Hovey, and Heath and Knapp that the bankrupt had no interest in the property which had been acquired by Hovey as execution plaintiff by Sheriff's deed; that he was holding it merely as assignee for collection for Heath and Knapp; that there was no agreement by which the bankrupt could reacquire it, and further, that she continued to occupy the property, collect the rents and care for the property through sufferance.

As of today the bankrupt contends however that the property was acquired by her nephew (Louis Alfred Douillard, Sr.) for \$500, which amount he paid to Hovey for the entire property on September 11, 1946 (the day following the original closing of this estate), the property being subject only to the encumbrance with a balance of approximately \$2300. She contends further that her nephew gave her a deed to the property on the following

day. With respect to this deed, had it not been recorded, it is quite likely that this reopening proceeding would never have been brought. She testified (Tr. Vol. III, Page 21):

“I really was going to leave it alone (the deed from the nephew to her) and live there until I died and not bother, but the boy’s son shot a woman. . . . His son, eleven years old, put a mask on and shot at a woman. They brought him into the sheriff’s Office. That is why I ran to the lawyer. I said, ‘This is what they have done, and he won’t have anything and I won’t have anything.’ So I put it through. Otherwise, I don’t think I would have ever bothered.

Question: “In other words, you would not have recorded the deed?”

Answer: “No, as long as he lived I would have lived there and let him have it.” [46]

It was the contention of the Trustee that when the property was brought in by Hovey by Sheriff’s deed dated April 18, 1944 (Judgment July 8, 1941—Sale by Sheriff April 12, 1943) for \$1775, that the plaintiff had in fact already been paid or that there was an agreement that upon the payment to Heath and Knapp of an undisclosed sum the property would then be released to the bankrupt.

On this rehearing there was introduced into evidence here the will of Fred W. Heath dated April 22, 1943 (just ten days after the execution sale). Heath died on September 8, 1945, and it then became necessary that his will

be filed, at which time it became a public record. That portion of the will pertinent here is the following:

“Mrs. Woodd owes me about \$1000 represented in the Hovey v. Woodd judgment.”

Knapp has testified that his respective interest as to Heath's in the Woodd fee was $\frac{3}{8}$ to him and $\frac{5}{8}$ to Heath.

Since the above date the present evidence shows that there have been at least the following admitted payments to Hovey, Heath and/or Knapp, i. e.:

To Hovey—\$500.00 Sept. 11, 1946

To Knapp—\$1600 (less \$400 on Heath's share also turned over because Heath owed Knapp) in re sale of Mrs. Woodd's property to Garnier in Glendale
(Tr. Vol. Iv, Page 204)

To Hovey for a/c of Heath—\$1200 from same source.

To Hovey from bank when mortgage was increased
(Tr. Vol. IV, Page 240)—\$1017.13

There was received by Heath, or on his account, \$1200. It is quite humorous to observe at the present time ~~that~~, as against the demand of the legal representative of the Heath estate, that Hovey, who has spent the \$1200 (and also the \$500) maintains that he should not be required to pay the said fund over. So it would seem that Heath has more than collected the \$1000 which he had in [47] the Woodd judgment.

It will be of interest to go back over the record and see just how the parties dealt with the property while

the title was still in Hovey's name and before it was sold by him to the nephew. I believe that the \$500 was actually paid to Hovey. He was in a position where he could demand it and that he did. It appears to have come from the bank account of the nephew, at least in the first instance, but the bankrupt in 1942, and after the obligations of the creditors herein were incurred, made him a present of an \$800 automobile, and he might have been returning in part the said gift.

M. L. Hovey testified with respect to the sale to the nephew of the bankrupt:

(Tr. Vol. IV, Page 144 and page 150, line 24)

(I did not talk to Mr. Knapp (or anyone representing the Heath estate) about the sale. I think I asked Mr. Douillard to buy.)

Q. "Do you remember testifying here to the effect that the title to the property was in your name and was to be held by you until Mr. Knapp's and Mr. Heath's fees was finally settled and they were to get part of the proceeds and you were to get part of the proceeds too?"

A. "Yes sir."

(When the Glendale property was sold I got around a thousand dollars which is now claimed by the Heath estate. I have not paid it to them. I used it in my living and in my business. It was for the sum of money he owned me for twelve years. It paid up my account with him. That \$1000 was owing to me by Mr. Heath and the \$200 was the part I was to receive for my services in that case.)

(Tr. Vol. IV, Page 148)

Q. By the Referee: "Then that paid it up?"

A. "Yes sir."

Q. By Mr. Bowden: "Then Mr. Knapp didn't owe you anything at that time?"

A. "I don't know. We had made no arrangements at all about that."

(I didn't tell Mr. Douillard that I was selling him the property subject to the rights of Knapp and the Heath estate but I thought he knew that.) Page 152. [48]

(Tr. Vol. IV, Page 152, Line 22)

Q. ". . . if he did ask you what the interest of the Heath estate and the interest of Mr. Knapp was in it, what would you have told him; how much is their interest in it?"

A. "I don't know. They had a fee that they were holding the property for. . . ."

(Tr. Vol. IV, Page 153, Line 19)

Q. "Was it your instructions that if they were paid that then you could release the property?"

A. "The property is subject to their fee."

Q. ". . . if you had the exact amount of their fee figured out, then was it your understanding that you could have released the property if that fee was paid?"

A. "Yes sir."

(Tr. Vol. IV, Page 154, Line 1)

Q. "If Mr. Douillard had come in with that exact amount of money to have paid them, then there would not have been any sort of question here?"

A. "Not that I know of. That is right."

(Tr. Vol. VI, Page 160)

(I didn't ask any questions about the grant deed when it was signed. I was anxious to get out.)

(Tr. Vol. IV, Page 161, Line 11)

Q. "Did you tell him you had \$500 of trustee fees you wanted paid and that is why you fixed the price at \$500?"

A. "No."

(Later on he felt I was entitled to take at least \$500. I believe it was him who said he thought I was entitled to a reasonable fee. I think I mentioned the \$500. He said of course he thought I was entitled to that or more.—I said before I transferred the property I should be entitled to a \$500 trustee's fee. (Page 162, line 25.) There was no written agreement with Mr. Heath and Mr. Knapp.)

(Tr. Vol. IV, Page 308, Line 23)

Q. ". . . what did you suppose he was giving you the \$500.00 for?"

A. "All he gave me the \$500 for was the place. . . . he wanted a place to live in."

(Tr. Vol. IV, Page 312, Line 19)

Q. "Did you have any conversation with Mrs. Woodd about selling the property?"

A. "No. . . ." [49]

(Tr. Vol. IV, Page 312, Line 19)

Q. "Did you have any conversation with Mrs. Woodd about selling the property?"

A. "No. . . ."

Q. "At any time?"

A. "Afterwards when they said they had transferred the deed I told her I thought that was a mistake to do that."

Q. "Why would it be a mistake, in your opinion?"

A. "Because she had just gone through bankruptcy.
. . . It would not look very good. (Page 313,
Line 9) . . . She told me that . . . her
nephew's boy had been in trouble and that he
had come and given her the deed. She came
over, I believe, for a treatment. . . .she
said she thought it was perfectly all right; he
had a right to give her anything that he wanted
to."

(Tr. Vol. IV, Page 315, Line 13)

Q. "Suppose she would pay them off (Heath & Knapp), would she then get it under your theory?"

A. "Yes, sir."

(I don't know how much; that would have to
be between them . . . I don't think the
arrangement between them is settled in amount
as long as the litigation is incompleated. (Knapp)
. . . I have received from the Woodd litigation
about \$1700 (Page 319).

(Tr. Vol. II, Page 21, Line 17)

A. "He (Heath) owed me about \$1200."

Q. "About \$1200? 'Then you were holding this, or
you were holding this property as security for a
repayment of that?"

A. "Yes."

Q. "Does that \$1200 include also what you were to get for acting as the nominal party-plaintiff?"

A. "This is right. . . . It included it."

Douillard did not appear in the prior administration. However, when the proceeding was reopened he appeared as a witness and maintained that he had purchased the full title of the property from Hovey subject only to the mortgage. His explanation was somewhat mystifying: [50]

" . . . I didn't see any reason for my fixing it up for someone else. . . ." (Tr. Vol. IV, page 126, line 11.)

(I knew nothing about my aunt's bankruptcy.)
(Tr. Vol. IV, Page 127, line 18.)

(Tr. Vol. IV, Page 128, Line 24)

Q. "You knew how Dr. Hovey happened to have the property?"

A. "Well, I knew my aunt had had trouble; that suits had been going on for years, but I had been away."

(Tr. Vol. IV, Page 130, Line 2)

Q. By the Referee: "What was the occasion the next day for making out a deed to this property which you had just bought, to your aunt?"

A. "Well, I figured in case something happened to me I would like her to have it. . . ."

Q. "Did you give her the deed?"

A. "Yes sir."

Q. "Do you know why she happened to record it?"

A. "My son got into a little trouble with the juvenile authorities. . . . She was afraid that they might sue me or something and ask me if I owned any property. . . . I just gave it to her. (The \$500 check I gave was on my bank account.) (Page 137—Mrs. Woodd gave me a present of a Plymouth automobile—I disposed of it for \$350 and put the money in the same account—I still have the \$350 in the bank.)

Later on January 23, 1947, Douillard testified:

(Tr. Vol. IV, Page 279, Line 22)

Q. "What conversation did you have with her before you went down to see Dr. Hovey?"

A. "I had no conversation with her. . . . I went to see him because I wanted to fix it up as a home; it is run down. I didn't want to invest any money in it until I had it."

(Tr. Vol. IV, Page 280, Line 10)

Q. "You don't claim any interest in it, do you?"

A. "No, except for repairs."

Q. "It belongs to your aunt?"

A. "I deeded it to my aunt."

Q. "Isn't it a fact that that property always has belonged to her; she has always lived in it?"

A. "I don't know whether it always belonged to her or not." [51]

Q. "But she has always lived in it?"

A. "Yes, sir, ever since I have known, yes."

(Page 282. I didn't have any idea what the property was worth at the market. I didn't know just what was against it. I imagine about \$2800. (The amount of balance of the mortgage was about \$2300.))

In referring to the execution of the deed by Hovey, Douillard stated that he already had the deed prepared when he went in to see Hovey. He came back and handed the deed to his aunt and told her to have it recorded. Then he states (Page 285, Line 3):

(Then I went and had the one made out with my name, to her. . . . I told her to put it away. . . . I had a friend make it out. . . . type it up. . . . It was typed up at the same time as the first one. But I didn't sign it until the next day.)

In referring to the actual details of the sale transaction with Hovey, Douillard testified (Tr. Vol. IV, Page 287, Line 23):

"He wanted to know whether I would be able to pay \$500.00. . . . He told me he was the owner."

(Page 288, Line 16)

Q. "Why did you ask him if it was all right to sell, that is rather unusual question?"

A. "Well, because my aunt had been going through bankruptcy and everything was happening; I didn't know what was going on."

(Page 290, Line 4)

Q. "When were the internal revenue stamps put on the deed?

A. "I don't know, my aunt took care of that."
(Dr. Hovey did not tell me that my aunt owed him \$500.)

The bankrupt was most helpful to Douillard and Hovey in assisting in the details of the sale, preparation of the deeds, recording of the deed from Hovey to Douillard, purchasing the Revenue stamps therefor, etc. She testified as follows:

(Tr. III, Page 14, Line 21)

Q. "So after Mr. Knapp told you he was going to sell you [52] told your nephew to buy it?

A. "Yes. . . ." (Page 15, line 22. I don't know where he had the deed made. He brought it to me all signed and he gave it to me about September 13. He told me he paid \$500.)

(Tr. Vol. III, Page 16, Line 12)

Q. "Did you talk to Dr. Hovey yourself in connection with the sale?"

A. "No, sir."

Q. "Did you ask Mr. Knapp what the property would be sold for?"

A. "No, sir." ". . . I will tell you, Mr. Crandall (Note: her attorney) told me and some friends I have to keep away from Dr. Hovey, that I have nothing to do with him. . . ."

With respect to the recording of the deed from Douillard to Mrs. Woodd, she testified:

(Tr. Vol. III, Page 21, Line 2)

“ . . . Before I brought it to the recorder I took it to my lawyer and had him look at it, this gentleman right here, Mr. Stewart. (Note: Her present attorney in this proceeding.) I brought it to him. He said it was all right, for me to go ahead. He wanted to see if it was made right or looked right. . . . Then it was recorded. . . .

(Tr. Vol. IV, Page 233)

“ . . . Louis gave me his deeds to have them recorded and I took them down to the bank and had them look over them and they were not rightly filled out. . . . So the bank made some more. . . . (Page 234, Line 13) Louis Douillard gave me two deeds filled out. . . . by some friend of his. (Page 235, Line 20) Then I took them home again to Louis.

Q. “You took them to him and told him to sign that new form?”

A. “Yes, sir.”

It will be observed that the deed from Hovey to Douillard and also the deed from Douillard to Woodd were originally prepared at the same time.

(Tr. Vol. Iv, Page 185, Line 2)

A. “I asked him (Mr. Dick of the bank) for a couple of blanks and . . . he said to his secretary, ‘Fill in the legal for her.’” [53]

Q. "So he filled in the legal one to Mr. Douillard, and one from Douillard back to you?"

A. "That is right. . . ."

Possibly the \$500 paid to Dr. Hovey came from Mrs. Woodd; even Mr. Knapp suggested as much.

(Tr. Vol. IV, Page 328, Line 22)

The Referee: "That it came from Mrs. Woodd?"

Mr. Knapp: "Yes, that it came from Mrs. Woodd but how and in what way I do not know."

Mr. Knapp testified with respect to the statement in the will (Tr. Vol. IV, Page 330, Line 8):

"Mr. Heath at the time that this will was drawn evidently was of a mental status that he didn't know what his condition was, his financial condition. . . ."

The Referee: "Now, you are going to say that the man was not mentally sound."

Mr. Knapp: "I Don't know what it was, whether it was to put his best foot forward in his wife's mind—"

The Referee: "I don't think we should take this dead man's will here and say he made misstatements as to his assets. . . . the will has been admitted to probate. . . . You don't have to put in the will of an incompetent."

Mr. Knapp: "I don't know that he was incompetent, he was just in an extravagant mood."

Thereupon an objection to the further impeachment of the will, which incidentally had been offered for probate by Mr. Knapp, was sustained.

At the close of the case, Mr. Stewart (present counsel for Mrs. Woodd) stated:

(Tr. Vol. Iv, Page 334, Line 9)

“ . . . Their testimony is not satisfactory, it has never been satisfactory to me, any of the testimony; they don't make it clear, but because there is testimony that arouses suspicions, I don't think that can be considered to be a conspiracy.”

Mrs. Woodd stated that most of her affairs had been taken up with Mr. Heath, and that Mr. Knapp, with her consent, was brought into the case for a share of the fee. [54]

We will never fully know the details of the arrangement between the client and her attorneys. Very possibly some fee was paid by Mrs. Woodd as the matters progressed. She was amply able to do so. Heath died September 8, 1945. In his will he stated that “Mrs. Woodd owes me about \$1000 represented in the Hovey vs. Woodd judgment.” Thereafter there was paid for his account this amount. I believe Heath's written statement; he addressed it to “Dear Edna,” his widow. There was no reason that he should not be truthful with her. It is to be recalled that the judgment was recovered July 8, 1941 and the execution sale was April 12, 1943. In other words, Hovey, Heath's assignee, already had bought the property in. The will was dated April 22, 1943. This fact, the future action of the parties, and their present admissions, convinces me that the agreed obligation for fees owing by Mrs. Woodd to Heath and Knapp were fully paid at the date of bankruptcy and the said real property was at that time being secretly held in Dr. Hovey's name until the discharge was granted and the

bankruptcy closed when it would be returned to the bankrupt. And I so find.

Counsel for the Trustee is directed to prepare findings of fact, conclusions of law and order in conformance with the views expressed herein.

Dated: March 13, 1947.

HUBERT F. LAUGHARN

Referee in Bankruptcy

[Endorsed]: Filed Mar. 13, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith, Clerk. [55]

[Title of District Court and Cause]

OBJECTIONS TO FINDINGS OF FACT

Comes now Respondents, Daniel A. Knapp, and Edna D. Heath, as Executrix of the Last Will of Fred W. Heath, deceased, and files this, their objection to the proposed Findings of Fact filed herein, as follows:

I.

That Respondents object to Finding "V" as wholly unsustained by any material evidence of any kind whatsoever; that there is not the slightest evidence of any secret agreement as to the ultimate disposition of said real property and there is no evidence of the payment of said fees by the bankrupt; that the evidence is directly to the contrary; that said finding is scandalous and imputes dishonorable acts to an honorable member of the State Bar of California now deceased, and to Daniel A. Knapp,

also such a member, both of whom have been judicially exonerated as to said acts and conduct.

II.

That Finding "VI" is incomplete and should be amended by adding after the word "therefor" on line 13 of page 4, Paragraph VI of said Findings, as follows: [56]

"That the said transfers were made without the knowledge and against the will of respondents, Edna D. Heath, Executrix of the Last Will of Fred W. Heath, deceased, and Daniel A. Knapp."

III.

And respondents further object to said Finding on the ground that by it they are deprived of real property, as to them without due process of law; that they have never been in a position to subpoena witnesses or present evidence save in a negative manner and within the narrow limitations of bankruptcy proceedings.

Dated: April 21, 1947.

DANIEL A. KNAPP

Attorney for Respondents [57]

[Affidavit of Service by Mail.]

[Endorsed]: Filed Apr. 22, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [58]

[Title of District Court and Cause]

FINDINGS OF FACT AND ORDER

This matter came on regularly to be heard before me, the undersigned Referee, on the 20th day of January, 1947, at the hour of 10:00 A. M. thereof, and was thereafter regularly continued to the 23rd day of January at the hour of 2:00 P. M. thereof. The Trustee being represented by his counsel Leslie S. Bowden, and J. M. Clements; the bankrupt being represented by her counsel Arthur T. Stewart; the respondent Edna D. Heath, Executrix of the estate of Fred W. Heath, deceased, being represented by her counsel Daniel A. Knapp; and the respondents Daniel A. Knapp, M. L. Hovey, and Lewis Alfred Douillard, Sr., appearing in propria persona; and respondents Security First National Bank of Los Angeles, California, and Anna L. Hovey failing to appear, and evidence both oral and documentary having been introduced, and having heard the arguments of counsel and the parties, and the matter having been submitted to me for decision, I find:

I.

That John L. Helmick is the duly appointed, qualified, and acting Trustee of the above named bankrupt estate.

II.

That for many years prior to the 10th day of April, 1940, Fred W. Heath had been the attorney for the bankrupt herein, and [59] particularly in a certain action entitled "Emil A. Douillard et al, Plaintiffs, vs. Melanie D. Woodd, Defendant," in the Superior Court of the State of California, in and for the County of Los Angeles, numbered therein 435718 and filed the 17th day of

January, 1939, and in connection with said action, the respondent Daniel A. Knapp was also attorney for the bankrupt. In the said action, the plaintiffs were seeking to recover from the bankrupt the sum of Seventy-Five Hundred (\$7,500.00) Dollars, and at the conclusion of the trial, the presiding judge indicated that judgment should be in favor of the plaintiffs and against the bankrupt and thereafter a judgment was entered in said action and Fred W. Heath and respondent Daniel A. Knapp on behalf of the bankrupt appealed from the same.

III.

Thereafter and on or about the 10th day of April, 1940, said Fred W. Heath and respondent Daniel A. Knapp discussed the amount of their fees with the bankrupt, and thereafter said Fred W. Heath and respondent Daniel A. Knapp assigned their claim against the bankrupt for attorneys' fees to respondent M. L. Hovey for collection. That on or about the 11th day of April, 1940, said Fred W. Heath and respondent Daniel A. Knapp commenced an action against the bankrupt in the Superior Court of the State of California, in and for the County of Los Angeles, entitled "M. L. Hovey, Plaintiff, vs. Melanie D. Woodd, Defendant," and numbered 450821 praying for judgment against the bankrupt in the sum of Seven Thousand (\$7,000.00) Dollars, and immediately caused a writ of attachment to be issued out of said court and levied on real property belonging to the bankrupt and described as follows:

The South 108 Feet of Lot 8 of the Zahn Tract, in the City of Los Angeles, as per map recorded in Book 12, Page 127 of Maps, in the office of [60] the County Recorder of Los Angeles County, and known as 5255 Virginia Avenue.

Said attachment was levied on other property also belonging to the bankrupt.

That on or about the 3rd day of July, 1941, the bankrupt agreed that a judgment might be entered against her in the sum of Four Thousand (\$4,000.00) Dollars, and on said day said judgment was so entered in said action number 450821.

IV.

That on or about the 3rd day of August, 1942, the appeal in the Superior Court action 435718 was decided adversely to the bankrupt and thereafter said Fred W. Heath and respondent Daniel A. Knapp in Superior Court action number 450821 caused an execution to be issued against the real property belonging to the bankrupt, and hereinabove described, and pursuant thereto said Fred W. Heath and respondent Daniel A. Knapp caused the Sheriff of Los Angeles County to sell the said real property and caused the same to be bid in at said sale in the name of respondent M. L. Hovey for the sum of One Thousand Two Hundred Fifty (\$1,250.00) Dollars, which said sum was credited on said judgment of Four Thousand (\$4,000.00) Dollars, and thereafter a Sheriff's deed to said real property was executed by the said Sheriff in favor of respondent M. L. Hovey. That thereafter plaintiff in action number 435718 brought an action against respondent M. L. Hovey to set aside said judgment and was unsuccessful in said action.

V.

That some time after the Sheriff's sale, and prior to the filing of the voluntary petition herein, a secret agreement was entered into between Fred W. Heath and respondent Daniel A. Knapp and M. L. Hovey on the one side, and

the bankrupt on the other, to the effect that the said real property above described purchased at the Sheriff's sale in the name of respondent M. L. Hovey, was [61] to be held by said M. L. Hovey until attorneys' fees in an agreed amount was paid by the bankrupt, at which time the said real property above described was to be returned to the bankrupt, and in the meantime said bankrupt was to have the use and control of said property. That the agreed attorneys' fees were thereafter and before the filing of the voluntary petition herein, paid by the bankrupt and received by said Fred W. Heath and respondent Daniel A. Knapp, through respondent M. L. Hovey as their agent in said action number 450821 above described.

That at the time of the filing of the bankruptcy proceedings herein, all of said agreed attorneys' fees had been paid. That it was further agreed between the said respondents herein and the bankrupt that the real property should not be reconveyed to the bankrupt until she should secure her discharge in bankruptcy and this estate should be closed.

The discharge of the bankrupt was granted, and thereafter this estate was closed on the 10th day of September, 1946, and on the 11th day of September, 1946, respondent M. L. Hovey executed and delivered to Lewis Alfred Douillard Sr., the bankrupt's nephew, a grant deed to the said real property above described, which said deed was immediately recorded by the bankrupt and thereupon said Lewis Alfred Douillard Sr. immediately executed and delivered to the bankrupt as "grantee" a grant deed to said real property above described. That the bankrupt did not at the time of the receipt of said grant deed intend to record the same, but owing to unforeseen circumstances arising thereafter, she believed that a judg-

ment might be recorded against respondent Lewis Alfred Douillard Sr. who held the record title to said real property, and she thereupon recorded the said grant deed in which she was the "grantee." That after the closing of the bankruptcy proceedings, and at the time of the execution of the grant deed from said respondent M. L. Hovey to respondent Lewis Alfred Douillard Sr., the latter paid to said [62] respondent M. L. Hovey the Trustee's fee in the amount of Five Hundred (\$500.00) Dollars demanded by respondent M. L. Hovey for his services rendered as Trustee and Agent for Fred W. Heath and respondent Daniel A. Knapp.

VI.

The said real property was at the date of the bankruptcy proceedings an asset of the bankrupt estate, although it was not listed in her bankrupt schedules. That during the prior administration of the said bankrupt estate, the said facts hereinabove referred to with respect to the plan to conceal the said real property from the bankrupt's Trustee, were not discovered and that the concealment having been discovered after the discharge was granted, the creditors caused the estate to be reopened. Whereupon the discharge heretofore granted the bankrupt was set aside with a determination that the fraud of the bankrupt was discovered after the said discharge was granted and the within proceedings instituted to declare that the real property was an asset of the bankrupt estate.

CONCLUSIONS OF LAW

As conclusions of law from the foregoing facts, the Court finds that the real property herein above described was at and at all times subsequent to the filing of the voluntary petition in bankruptcy herein, an asset of this bankrupt estate and that the respondents have no right title, lien or claim thereto; and it is therefore

Ordered that the respondents have no right title, interest, lien, or claim in and to said real property described as follows:

The South 108 Feet of Lot 8 of the Zahn Tract, in the City of Los Angeles, as per map recorded in Book 12, Page 127 of Maps, in the office of the County Recorder of Los Angeles County, and known as 5255 Virginia Avenue. [63]

That said real property is an asset of this bankrupt estate and the title thereto is and was at all times herein mentioned subsequent to the adjudication in bankruptcy herein vested in the Trustee.

Dated: Los Angeles, California, this 3 day of May, 1947.

HUBERT F. LAUGHARN

Referee

[Endorsed]: Filed Apr. 26, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith, Clerk. [64]

[Title of District Court and Cause]

PETITION FOR REVIEW OF REFEREE'S ORDER
IN BANKRUPTCY

To the Honorable Hubert F. Laugharn, Referee:

Your petitioners, Edna D. Heath, as Executrix of the Last Will of Frederick W. Heath, Deceased, and Daniel A. Knapp hereby petition for the review by the judge of the above Court, of your order entered May 3rd, 1947, and that the same be vacated and set aside, and to that end allege as follows:

I.

FACTS OF THE CASE

That the said Findings of Fact as set forth in Paragraphs I, II and III present the facts only so far as they assume so to do; that, however, the following are additional facts not therein set forth:

(1) That in April, 1940, the said M. L. Hovey executed his written assignment of his claim as set up in the complaint in said action No. 450821 in the Superior Court of Los Angeles County, and to any judgment that might be secured thereby to Fred W. Heath and Myra C. Knapp, and Myra C. Knapp thereafter and on April 20, 1940 assigned her said interest to Daniel A. Knapp, and said assignments to Fred W. Heath and Daniel A. Knapp remain in full force and effect to this day. [65]

(2) That on or about February 9th, 1943, the said Fred W. Heath and Daniel A. Knapp caused a writ of execution to issue in said action No. 450821 upon that certain real property of Melanie D. Woodd lying and

situate in the City of Los Angeles, County of Los Angeles, State of California, described as:

The South 108 feet of Lot 8 of the Zahn Tract as per map recorded in Book 12, page 127 of Maps, in the office of the County Recorder of said County;

and upon the 12th day of April, 1943, they caused the Sheriff of said County and State to sell said property under said writ of execution in the manner and form prescribed by law, to the highest bidder therefor; that at said sale the said Fred W. Heath and Daniel A. Knapp bid in said real property in the name of the said M. L. Hovey, who then and thereafter agreed to act in respect to said property as their agent and trustee and within their instructions and directions; that the purchase price was \$1775.00, which said Sheriff charged off against said judgment of \$4000.00 plus costs; that the said M. L. Hovey at no time paid any consideration for the deed at the time of said sale executed to him as aforesaid.

(3) That subsequent to the said Sheriff's sale, the said Fred W. Heath and Daniel A. Knapp made an agreement with the said Melanie D. Woodd whereby she was to have and occupy an apartment in their said property and in consideration therefor was to collect the rentals from said property and deliver the same to M. L. Hovey as their agent aforesaid, and the said Melanie D. Woodd did collect said rentals and deliver the same to M. L. Hovey, and occupies said apartment to this day.

(4) That subsequent to the said Sheriff's sale the said Fred W. Heath and Daniel A. Knapp directed and instructed their said agent and trustee, M. L. Hovey, to receive said rentals from the said Melanie D. Woodd and to expend the same for the payment of the necessary ex-

penses connected with said property, inclusive of [66] installment payments upon the existing encumbrance standing against said property and to keep an account thereof open to their inspection; and the said M. L. Hovey did follow said instructions and directions save as hereinafter set forth.

(5) That on September 8th, 1945, the said Fred W. Heath died and in due season plaintiff Edna D. Heath was appointed the Executrix of his Last Will, who ever since has served and does now serve in that capacity.

(6) That for a considerable period of time prior to September 11th, 1946, the said Melanie D. Woodd had, as a boarder in her said apartment, a nephew named Louis Alfred Douillard; that the said Louis Alfred Douillard well knew that the actual ownership of said property was in Daniel A. Knapp, and the said Estate of Fred W. Heath, Deceased, and that M. L. Hovey, while holding the legal title thereof, was acting merely as their trustee; that Melanie D. Woodd at all times herein mentioned knew that the ownership of said property was not in M. L. Hovey but that he was merely the agent of Daniel A. Knapp and the estate of Fred W. Heath, deceased, notwithstanding that he was permitted to be the record owner thereof for the time being.

That while fully possessed of said knowledge the said Louis Alfred Douillard and Melanie D. Woodd connived and conspired together to the end of securing on or about said September 11th, 1946, the execution of a grant deed of said real property by M. L. Hovey to the said Louis Alfred Douillard, Sr. and by the further immediate execution of a grant deed of said real property by the said Louis Alfred Douillard to Melanie Selena Woodd (other-

wise known as Melanie D. Woodd); that the said M. L. Hovey received \$500.00 for so doing and the said Louis Alfred Douillard has ever claimed the said \$500.00 was his money, but the said Melanie D. Woodd received his said deed without any consideration whatsoever; that at said time the said property had an approximate value over and above the existing encumbrance, greatly in excess of said purchase price; that the said Louis Alfred Douillard at said time [67] had no evidence of any title in the said M. L. Hovey save a tax receipt, and entered into no escrow thereto concerning, and had no title search thereof; that the said transaction was done secretly without any hint thereof to the said Edna D. Heath or Daniel A. Knapp and the deed to said Melanie D. Woodd was not recorded until October 18, 1946.

(7) That long prior to the said 10th day of September, 1946, the said Melanie D. Woodd had filed her petition in bankruptcy herein, and on said September 10th, 1946 was fully discharged therein.

(8) That subsequent to October 18th, 1946, the Trustee of the Estate of Melanie D. Woodd, Bankrupt secured an order addressed to said Melanie D. Woodd et al., to show cause why the said matter should not be re-opened and the said real property be declared an asset of said bankrupt's estate, and the Referee herein has so ordered.

II.

RELATING TO FINDINGS OF FACT

That the allegations of Paragraph V of said Findings of Fact are untrue in the following:

(1) That no secret agreement, or otherwise, was made, as in said paragraph set forth to the effect that said real property above described and purchased in the name of

M. L. Hovey was to be held by the said M. L. Hovey until "attorneys' fees in an agreed amount was paid by the bankrupt, at which time the said real property above described was to be returned to the bankrupt . . ."; that no writing, without which such an agreement would be entirely ineffective, was ever executed or testified to; that no oral agreement to such an effect was ever made by said parties, or at all; that no attorney's fees were due and owing by Melanie D. Woodd to the said Daniel A. Knapp and Fred W. Heath, or either of them, from and after July 3rd, 1941, at which time their claim for fees became merged into said judgment in the sum of \$4000.00 in said action No. 450821, and said judgment was not entirely paid even after the sale on execution of [68] said real property on or about April 12th, 1943, and remains partially unpaid to this day; that no payment of moneys for any purpose was made to the said Fred W. Heath and Daniel A. Knapp, or either of them by the said Melanie D. Woodd after said Sheriff's sale and prior to the filing of said petition in bankruptcy by her; that there was no agreement in writing or understanding to the effect that said real property should not be reconveyed by the said M. L. Hovey until after her discharge in bankruptcy; that said finding is based on no facts at all, but on imagination only, with no grounds at all for a legal inference.

(2) That the said real property was not, as of the date of the bankruptcy proceedings, an asset of said bankrupt's estate; that under the contemplation of the law the only estate that was transferred to Melanie D. Woodd was that of an estate in trust for the benefit of the Estate of Fred W. Heath, deceased and Daniel A. Knapp; that the attempt of the said Trustee in bankruptcy to take

over the said property to be sold for the benefit of the creditors of Melanie D. Woodd in bankruptcy amounts to a legal fraud on the actual owners of said property and would amount to confiscation of their property without due process of law, since at no time in the proceedings in bankruptcy have they had an opportunity to bring in their own witnesses in proof of their allegations of fact herein contained, save from the witnesses subpoenaed by said Trustee in Bankruptcy.

That said matter came on for final hearing on January 20th, 1947; that said Referee in bankruptcy made and executed his said Findings and order on May 3rd, 1947.

III.

That a copy of the order of the Referee is attached hereto and made a part hereof and marked Exhibit "A".

IV.

That said order is erroneous for the following reasons, to wit: [69]

(1) That the Findings of Fact, Paragraph V, wherein it is stated:

"That some time after the Sheriff's sale, and prior to the filing of the voluntary petition herein, a secret agreement was entered into between Fred W. Heath and respondent Daniel A. Knapp, and M. L. Hovey on the one side, and the bankrupt on the other, to the effect that the said real property above described purchased at the Sheriff's sale in the name of respondent M. L. Hovey, was to be held by said M. L. Hovey until attorneys' fees in an agreed amount was paid by the bankrupt, at which time the said real property above described was to be returned to the bankrupt, and in the meantime said bankrupt was to have the

use and control of said property. That the agreed attorneys' fees were thereafter and before the filing of the voluntary petition herein, paid by the bankrupt and received by said Fred W. Heath and respondent Daniel A. Knapp, through respondent M. L. Hovey as their agent in said action number 450821 above described."

is not sustained by the evidence and is against evidence.

That as to the alleged secret agreement, no one testified to such an agreement, but did testify that there was no such agreement, either before or after the said sale, or at all, so that the finding in that respect is against evidence; that the impossibility of such a finding is apparent when it is realized that the said judgment in said action No. 450821 ended all claim on the part of Knapp and Heath for fees; and when it is further realized that the property was sold under execution at a Sheriff's sale conducted presumptively in absolute accord with the requirements of the law, to the end that, aside from the limitations of the equity of redemption, it became the absolute property of the purchasers without regard to the original obligations involved.

(2) That no evidence of a writing legally binding on the said Daniel A. Knapp, Fred W. Heath or M. L. Hovey to convey said real [70] property to Melanie D. Woodd was produced at said hearing, or at all; that the sole evidence looking toward any agreement of such a nature was that Melanie D. Woodd, in consideration of the collection of rents from tenants on said property and the delivery thereof to M. L. Hovey, together with her services in caring for said property, was to and did receive the use of an apartment free of charge; that at no

time did she have the control of said property, and her control in no particular went further than the foregoing.

(3) That no moneys as attorneys' fees were received by Daniel A. Knapp and, or Fred W. Heath before the filing of the bankruptcy petition herein, or at all, and there is no evidence whatsoever of such payment; that there was evidence of the payment of moneys to M. L. Hovey as their agent on the sale of that certain property bought by him as their agent at a Sheriff's sale, and which he held to their benefit as the actual owners thereof, but said money was not fees, but was the sales return on their own property, and there is not a scintilla of evidence in the record to the contrary; that there is no evidence that at the time of the filing of the said bankruptcy proceeding, all of said attorneys' fees had been paid; that the record herein shows a judgment in favor of M. L. Hovey as the agent of Daniel A. Knapp and Fred W. Heath in the sum of \$4000.00, together with costs in the sum of \$20.25 and expenses of sale, upon which interest was accruing at the rate of 7% per annum; that the said judgment was credited with the purchase price of two properties under execution in the sum of approximately \$2900.00, and from other sources in the sum of approximately \$600.00 additional, leaving approximately \$1000.00 of said judgment still owing and unpaid. That it is true that Fred W. Heath in his will stated that there was owing to him from Melanie D. Woodd, out of the Hovey judgment about \$1000.00, and it would appear that his estimate was comparatively correct, but he referred to an unpaid balance on the judgment, and did not even mention fees; he could not declare fees were still due and owing, since [71] the fee claim was merged in the judgment and that obligation became a new and distinct obli-

gation against Melanie D. Woodd and took the place of the claim for fees.

(4) That said Finding further stated:

“That it was further agreed between the said respondents herein and the bankrupt that the real property should not be reconveyed to the bankrupt until she should secure her discharge in bankruptcy and this estate should be closed.”

That there is no evidence in support of said finding and said finding is against evidence; that it is true that the within estate in bankruptcy was closed on September 10th, 1946; and it is moreover true that in pursuance of a conspiracy between M. L. Hovey, Louis Alfred Douillard and the said Melanie D. Woodd, M. L. Hovey was to and did execute his grant deed to Louis Alfred Douillard, Sr. on September 11th, 1946, and Louis Alfred Douillard was to and did execute his grant deed to Melanie Selena Woodd (also known as Melanie D. Woodd), as of approximately the same date; that in order to secure the execution of said deed from the said M. L. Hovey to Louis Alfred Douillard, the said M. L. Hovey was paid \$500.00, but as your petitioners are informed and believe and on that ground allege the said \$500.00, in deed and in truth, was money belonging to or owing to Melanie D. Woodd by the said Louis Alfred Douillard; that it is true that the said Melanie D. Woodd testified that she recorded her said deed solely because she was afraid some judgment would be had against Louis Alfred Douillard

endangering said real property, but as petitioners are informed and believe and on that ground allege, no action was brought against Louis Alfred Douillard jeopardizing said deed, and said deed of Melanie D. Woodd was not recorded by reason thereof, but solely so as to secure to herself title of record to said property and in the belief that such title would be secure as to all adverse claimants, since said recordation was more than one month after her final discharge in [72] bankruptcy; that all of the said acts of M. L. Hovey, Louis Alfred Douillard, Sr. and Melanie D. Wood were done against the will and without the knowledge of Edna D. Heath or Daniel A. Knapp, and for the purpose of defrauding them of said real property.

V.

That the conclusion of law that the respondents have no right, title, interest, lien or claim to said real property, as applied to respondents, Edna D. Heath, as Executrix of the Last Will of Fred W. Heath, deceased, and Daniel A. Knapp is erroneous both in fact and in law, as demonstrated in the points and authorities attached hereto and made a part hereof.

Wherefore, your petitioners pray for a review of said Order and that said Order be vacated and set aside.

DANIEL A. KNAPP

Attorney for Petitioners [73]

[Title of District Court and Cause]

POINTS AND AUTHORITIES ON PETITION FOR
REVIEW

I.

THE EFFECT OF THE JUDGMENT RENDERED
IN ACTION NO. 450821 ON ATTORNEY'S
FEES

1. Factually, the judgment of \$4000.00 for attorney's fees due and owing Fred W. Heath and Daniel A. Knapp by Melanie D. Woodd was entered in favor of their agent M. L. Hovey on July 3rd, 1941.

2. Effect.

(a) California Nat. Supply Co. vs. Porter, 83 Cal. App. 758 on page 761, par. 2:

"However, no possible doubt can exist that the plaintiff's cause of action abated when it recovered judgment on the note."

On page 763, par. 4:

"The cause of action upon the note became merged in the judgment, and also it may be said that upon the principle of estoppel the securing of a judgment upon the note results in a waiver of appellant's right to seek another remedy by asserting and foreclosing the lien as a means of realizing upon the same obligation." [76]

In the instant case, the recovery of a judgment created a new debt or liability, distinct from the original claim

for attorneys' fees, which vanished from the picture and the judgment took its place.

Timm v. McCartney, 30 Cal. App. (2d) 241, on page 248:

"The rule in this regard is thus stated in 34 Corpus Juris at page 755: 'As a general rule the recovery of a judgment creates a new debt or liability, distinct from the original claim or demand, and this new liability is not merely the evidence of the creditor's claim, but is thereafter the substance of the claim itself.'"

Hutchinson v. Reclamation Dist. No. 1619, 81 Cal. App. 427, page 438, par. 2

applies herein. The old claim of fees disappeared. The judgment was a new distinct liability.

II.

THE ESTATE CONVEYED BY THE SHERIFF'S DEED

Estate of Pierce, 28 Cal. App. (2d) 8 (Syllabus):

"The sale by the Sheriff on an execution against a judgment debtor has the same force and effect as a conveyance by the judgment debtor, . . ."

Application. M. L. Hovey, as to all the world, save his cestui que trustents became the legal owner of the Zahn Tract property on the purchase of that property under execution in 1943.

III.

ATTRIBUTES OF OWNERSHIP

Section 679 Civil Code:

“The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.”

Burris v. Rodrigues, 22 Cal. App. 645 on p. 647:

“Of course, it is axiomatic that where a person has a [77] right to the use and enjoyment of property he is entitled to have it protected against invasion by another and his ownership of the property carries with it the right to the full use and enjoyment of it or of disposing of the entire interest to another.”

Application to the within case.

Having purchased the property at issue and holding it under the trusteeship of M. L. Hovey, Knapp and Heath had the right to dispose of it as they chose. Even if they desired to transfer it to Melanie D. Woodd, that was their right. And if they wished to enter into a secret agreement with her—after they had become the actual owners thereof—to return the property to Mrs. Woodd, that also was their right. No such agreement was made or contemplated, but had it been made, only a single question could be examined by this Court, to wit: whether they at any time legally transferred the property to Mrs. Woodd, so that, thereby, it became subject to her debts in bankruptcy.

IV.

HOW COULD SUCH TRANSFER BE LEGALLY
MADE?

Section 1971 C. C. P.:

“No estate or interest in real property, other than for leases for a term not exceeding one year, nor any trust or power over or concerning it, or in any manner relating thereto, can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering, or declaring the same, or by his lawful agent thereunto authorized by writing.”

Edwards vs. Lewis, 25 Cal. App. 168;

Paul vs. Layne & Bowler Corp. 9 Cal. (2d) 561.

An oral contract to convey realty is unenforceable because of the statute of frauds.

Sesma vs. Ellis, 38 Cal. App (2d) 139. [78]

Application.

Finding V. says: That some time after the Sheriff's sale and prior to the filing of the voluntary petition herein . . . ” and then declares a secret agreement was made as between Knapp, Heath, Hovey and Woodd to the effect that “the said real property was to be returned to the bankrupt”

Not only did the finding fail to say there was any writing to that effect, but it did not even attempt to fix a date for such an alleged agreement. It was as vague as the

story books: "Once upon a time"; it said "That some time", thus establishing a confession of utter uncertainty. No language of the alleged agreement was set out. It was merely "to the effect". There was not the slightest vestige of any evidence of such an agreement. No one so testified.

Since neither the finding nor any factual evidence in support thereof establishes a written contract providing for the transfer of this land by Knapp, Heath or Hovey to Mrs. Woodd, it is clear that no conclusion of law determining that such transfer was made, can stand.

V.

THE PROPERTY IS HELD BY MRS. WOODD BY VIRTUE OF A CONSTRUCTIVE TRUST ONLY

Section 2224 Civil Code:

"One who gains a thing by fraud, accident, mistake, undue influence, the violation of a trust, or other wrongful act, is, unless he has some other and better right thereto, an involuntary trustee of the thing gained, for the benefit of the person who would otherwise have had it."

Section 2243 Civil Code:

"Everyone to whom property is transferred in violation of a trust, holds the same as an involuntary trustee under such trust, unless he purchased it in good faith, and for a valuable consideration." [79]

Thompson vs. Bank of California, 4 Cal. App. 661 involved a promissory note executed to Bell for \$29,262.18, but Bell acted as agent and trustee for Thompson as to an undivided one-half. Bell became indebted to defendant

bank and pledged the note to it without Thompson's consent. The Bank knew of Thompson's interest. On page 667 thereof the decision states:

"And a court of equity will enforce a trust against all persons who, with notice of the trust, come into possession of the trust property, in the same manner and to the same effect as against the original trustee."

As to land see

Nougues vs. Newlands, 118 Cal. 102.

One who takes title to property with knowledge of the equitable ownership of others therein is a trustee for such other persons.

Calkins vs. Calkins, 62 Cal. App. 292.

In Middlecoff vs. Durnal, 130 Cal. App. 119 Middlecoff, an attorney, made an agreement with Kelly that Middlecoff was to prosecute certain actions to perfect title in certain lands in Kelly and was to receive back his advances and have one half of the over plus as and for his services. Three lots thus came into the hands of Kelly. Kelly deeded the three lots to his wife, Ione and Ione deeded the three lots to her sister, Pearl M. Durnal. Middlecoff brought suit, seeking a decree of the Court declaring him to be half owner of the said lots. Notice was proved. The claim was made that Durnal, the defendant, was an innocent purchaser for value, but that was disproved. The judgment of the Court was: (page 122)

"As we have heretofore pointed out, the appellant had both constructive and actual notice of the respondent's claim and, under the circumstances shown,

it must be held not only that the appellant took the property subject to the claim of the respondent, but that this claim was an existing interest which could not be defeated by mere haste in conveying the property before the same could be judicially established." [80]

Application: M. L. Hovey held the property as the Trustee for Knapp and Heath. The entire purchase price to Hovey was paid from the Heath-Knapp judgment; none by Hovey. Hovey assigned the claim and any judgment therefrom arising to Knapp and Heath. Hovey corroborated this in his testimony. Quoting from Hovey's testimony:

Transcript p. 145, l. 3:

"Q. And you talked with him, (Knapp) about this sale, didn't you?

A. No, I never did talk with him about it.

Q. Why didn't you?

A. I don't know why I didn't."

Transcript, page 150:

"Q. You mean you said you were turning it over to him (Douillard) to hold for Mr. Knapp?

A. Until whatever settlement he would make."

.

Transcript, page 150, l. 19:

"Q. Then who had an interest in it?

A. The only interest was in Mr. Heath's estate and Mr. Knapp."

Mrs. Woodd accepted and holds her deed with complete knowledge of the trust in Hovey. She was the defendant in the original suit of Hovey vs. Woodd, Action No.

450821 Superior Court of Los Angeles County, wherein he was to and did act as plaintiff for the purpose of collecting the Heath-Knapp fees, or forcing it to judgment.

Mrs. Woodd's testimony: (Transcript, page 17, 1. 3, by the Referee).

"Q. When you went to see Mr. Knapp, you say he was sort of worried?

A. Yes, because I had named him in this bankruptcy.

Q. Did he tell you how much Dr. Hovey would sell the [81] property for, or how much he wanted as a fee? A. No, sir.

Q. Apparently Dr. Hovey was holding the property as you recall now, for Mr. Knapp?

A. He was an assignee.

Q. Holding it for him? A. Yes.

Q. In other words, it was really Mr. Knapp's property, isn't that it?

A. I would imagine so. Yes sir, but the deeds were in Dr. Hovey's name.

Q. But, as I recall the facts we had a hearing here, I am rather hazy on that—but Dr. Hovey, you might say, was acting as agent for Mr. Heath and Mr. Knapp.

A. Yes, mostly Mr. Heath I think."

Mrs. Woodd's testimony relating to Douillard's knowledge was as follows:

Transcript page 27, 1. 22:

"Q. How did you know Mr. Knapp wanted to sell the property?

A. He just said: 'I am going to sell.' That is all, and he walked back into his room.

Q. Why didn't you ask him how much he wanted to sell it for?

A. You can't talk to Mr. Knapp when he is bitter and angry.

Q. Then you had an idea the property could be bought so you told your nephew to go and see Dr. Hovey?

A. No, I didn't have an idea it could be bought. I just talked about what he (Knapp) said he was going to do and the boy (Douillard) evidently took it upon himself, as long as it was going to be sold. I guess anybody would have done it.

Q. I was wondering why he didn't go in and see Mr. Knapp because he was the real owner.

A. I don't know." [82]

Here then we have Douillard notified of the actual ownership of the property. Why did he not go to the owner? The answer is in the fact that there was a lot in the conversation with Douillard that Mrs. Woodd admitted, leading to the conclusion that she advised Douillard then and there that Hovey had the deed in his name and therefore, to get a deed from him. The fact remains that Douillard knew Hovey was merely a trustee.

M. L. Hovey's testimony as to Douillard: (Tr. p. 150)

"Q. You mean you said you were turning it over to him (Douillard) to hold for Mr. Knapp?

A. Until whatever settlement they would make."

Elsewhere Hovey testified it was the understanding with Douillard that he was passing to Douillard the trusteeship only.

The cited case of Middlecoff vs. Durnal is on all fours with the instant case in that notice of the trust was in Mrs. Woodd and that she should be declared as holding the said property for the Estate of Fred W. Heath and Mr. Knapp.

VI.

CONCLUSION

Fees, "as such", were extinguished by the judgment in Action No. 450821 aforesaid. The sale of the property under execution to M. L. Hovey completed the erasure of the fee question. As owner of the legal title, Hovey could dispose of it as he wished subject only to his trust. As owners of the equitable title Knapp and Heath could so do through their said trustee. The knowledge of the trust was in Mrs. Woodd. The question is not one of fees, but of property rights in the Zahn Tract property. Knapp and Heath never executed any writing transferring said property to Woodd or any one else. The Trustee in bankruptcy has no greater title than Mrs. Woodd, which was merely that of a Trustee under a constructive trust in favor of the Estate of Fred W. Heath and Daniel A. Knapp. The Referee's Order is clearly erroneous.

D. A. KNAPP

Attorney for Petitioners [83]

[Verified.]

[Endorsed]: Filed Jun 11, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith, Clerk. [84]

In the District Court of the United States
Southern District of California
Central Division

In Bankruptcy No. 44,032-B

In the Matter of

MELANIE DOUILLARD WOODD,

Bankrupt.

ORDER ON PETITION FOR REVIEW OF
REFEREE'S ORDER

Upon the petition for review of the bankrupt, Melanie Douillard Woodd, and the petition for review of Edna D. Heath, Executrix of the last will of Fred W. Heath, deceased, and Daniel A. Knapp, filed on the 11th day of June, 1947, and upon the certificate of the Referee dated the 18th day of June, 1947, and filed, and upon all the proceedings had before the Referee as appears from his said certificate, and upon hearing counsel for the parties, it is

Ordered:

1. That the above-mentioned petitions are, and each of them is, denied.

2. That the Referee's orders are, and each of them is, confirmed, and the findings of fact and conclusions of the Referee are hereby adopted as the findings of fact and conclusions of law of the Court.

Dated: December 1st, 1947.

C. E. BEAUMONT

District Judge

Judgment entered Dec. 2, 1947. Docketed Dec. 2, 1947. Book C. O. 47, page 220. Edmund L. Smith, Clerk; by Murray E. Wire, Deputy.

[Endorsed]: Filed Dec. 1, 1947. Edmund L. Smith, Clerk. [85]

[Title of District Court and Cause]

NOTICE OF APPEAL

Notice is hereby given that Edna D. Heath, Executrix of the Last Will of Fred W. Heath, deceased, and Daniel A. Knapp, appearing herein as Respondents under a duly issued order to show cause why certain real property belonging to them and held in the name of their trustee, M. L. Hovey, and further appearing herein as petitioners for a writ of review of the adverse decision rendered by the Honorable Hubert F. Laugharn, Referee herein in bankruptcy, hereby appeals to the United States Circuit Court of Appeals, for the Ninth Circuit, from the Order entered December 2nd, 1947, in C. O. book 47, page 220, denying petition for review of the said Edna D. Heath, Executrix aforesaid, and Daniel A. Knapp, and confirming the orders of the Referee and adopting by the Court the Findings of Fact and Conclusions of Law of the Referee.

Dated: December 26, 1947.

DANIEL A. KNAPP

Attorney for Edna D. Heath, Executrix of the Last Will
of Fred W. Heath, Deceased, and in Pro Per [86]

[Affidavit of Service by Mail.]

[Endorsed]: Filed Dec. 26, 1947. Edmund L. Smith,
Clerk. [87]

[Title of District Court and Cause]

ORDER EXTENDING TIME FOR FILING AND
DOCKETING RECORD ON APPEAL

Good cause appearing therefor, It Is Hereby Ordered that appellants may have to and including the 15th day of February, 1948, within which to docket their appeal and the record on appeal in the above entitled cause in the United States Circuit Court of Appeals, for the Ninth Circuit.

Dated: February 2nd, 1948.

PAUL J. McCORMICK

Judge

[Endorsed]: Filed Feb. 3, 1948. Edmund L. Smith,
Clerk. [91]

[Title of District Court and Cause]

ORDER EXTENDING TIME FOR FILING AND
DOCKETING RECORD ON APPEAL

Good cause appearing therefor, It Is Hereby Ordered that appellants may have to and including the 24th day of March, 1948, within which to docket their appeal and the record on appeal in the above entitled cause in the United States Circuit Court of Appeals, for the Ninth Circuit.

Dated: February 10, 1948.

C. E. BEAUMONT

Judge [92]

[Affidavit of Service by Mail.]

[Endorsed]: Filed Feb. 11, 1948. Edmund L. Smith,
Clerk. [93]

In the District Court of the United States for the
Southern District of California
Central Division

In Bankruptcy No. 44,032-B

In the Matter of

MELANIE DOUILLARD WOODD,

Bankrupt.

EDNA D. HEATH, as Executrix of the Last Will of
FRED W. HEATH, Deceased, and MYRA C.
KNAPP, as Executrix of the Last Will of DANIEL
A. KNAPP, Deceased,

Appellants,

vs.

JOHN N. HELMICK, Trustee of the Estate of
MELANIE DOUILLARD WOODD, Bankrupt,
Respondent.

ORDER SUBSTITUTING MYRA C. KNAPP, EXE-
CUTRIX OF THE LAST WILL OF DANIEL
A. KNAPP, DECEASED

Upon the reading and filing of the petition of Myra
C. Knapp, Executrix of the Last Will of Daniel A.
Knapp, deceased, and good cause appearing therefor,

It Is Ordered that Myra C. Knapp, Executrix of the
Last Will of Daniel A. Knapp, deceased, be and she is
hereby substituted as one of the appellants herein in the
place and stead of Daniel A. Knapp, deceased.

Dated this 23rd day of March, 1948.

LEON R. YANKWICH

Judge [94]

[Title of District Court and Cause]

PETITION FOR SUBSTITUTION OF MYRA C.
KNAPP, EXECUTRIX OF THE LAST WILL
OF DANIEL A. KNAPP

To the Honorable Judges of the Above Entitled Court:

The verified petition of Myra C. Knapp respectfully shows unto the Court as follows:

I.

That Daniel A. Knapp, one of the respondents in this matter, departed this life on January 24, 1948, subsequent to the filing of his appeal to the Circuit Court of Appeals for the Ninth Circuit of this matter and on the 27th day of February, 1948, your petitioner [95] was appointed Executrix of his estate.

II.

Pursuant to Rule 25 of the Federal Rules of Civil Procedure, your petitioner should be substituted as a party in the place of Daniel A. Knapp, deceased.

III.

That upon her appointment as Executrix of said estate of Daniel A. Knapp, deceased, petitioner retained Ernest R. Utley and J. Geo. Ohanneson to prosecute said appeal.

Wherefore petitioner prays that an order be entered herein substituting your petitioner as Executrix of the Last Will of Daniel A. Knapp, deceased, as a party respondent in the above matter and that Ernest R. Utley and J. Geo. Ohanneson be designated as her attorneys in the above matter.

MYRA C. KNAPP

ERNEST R. UTLEY

Of Counsel for Petitioner

[Verified.]

[Endorsed]: Filed Mar. 23, 1948. Edmund L. Smith,
Clerk. [96]

[TRUSTEE'S EXHIBIT NO. 1]

[Hearing of October 3, 1945]

Acct. Closed Apr 12 '39

Wood—Melanie D.

Security Office Term No. 585201

I hereby agree to the conditions printed in the Bank Book issued in connection with this account by the Security-First National Bank of Los Angeles.

Mr.

Sign

Mrs.

Here

Melanie D. Woodd

Miss

Residence

Address 5255 Virginia Ave L A Tel. O.L. 9158
City

Business

Address

Tel.

City

Other A/Cs Estate Acct of

Occupation Nurse This Branch Emily S. Donahue dec'd
Former Bank Account
or Reference

Birth

Introduced By Mr. Kessler Place Los Angeles, Calif.

Mother's Maiden Name

Emily S. De Vigueran

First Deposit

Acct. Opened By

Date

\$14.15

[Illegible]

[Illegible]

Account No. 585201

Melanie D. Woodd

-1

| Date | Withdrawn | Interest | Deposited | Balance |
|---------------|-----------|----------|-----------|----------|
| Sep 22 '38 | | 02 | 5 | |
| Sep 22 '38 | | 03 | 9 15 | 14 15 |
| Sep 27 '38 | | 1 50 | 400 | 414 15 |
| Oct 19 '38 | Douillard | | 9 75 | 423 90 |
| Nov - 3 '38 | | | 199 94 | 623 84 |
| Nov 19 '38 | " | 1 55 | 9 75 | 633 59 |
| Nov 23 '38 | 15 00 | | | 618 59 |
| Nov 26 '38 | 200 | | | 418 59 |
| Dec 12 '38 | 15 | | | 403 59 |
| Dec. 31, 1938 | Interest | | 1 55 | 405 14 |
| Feb 11 '39 | 50 | | | 355 14 |
| Feb 17 '39 | 40 | | | 315 14 |
| Mar 10 '39 | 15 14 | | | 300 |
| Mar 13 '39 | | | 50 | 350 |
| Mar 14 '39 | 30 | | | 320 |
| Mar 20 '39 | 50 | | | 270 |
| Mar 28 '39 | 15 | | | 255 |
| Apr 5 - '39 | 40 | | | 215 |
| Apr - 8 '39 | | | 6 790 55 | 7 005 55 |
| Apr 10 '39 | 6 805 55 | | | 200 |
| Apr 12 '39 | 200 | | | |

Forward

2399* K.I. Term Savings Ledger Card—Security-First National Bank of
Los Angeles

U. S. District Court No. 44032-B. Trustee's Exhibit
No. 1. Filed Oct. 3, 1945. Hubert F. Laugharn, Ref-
eree.

[Endorsed: Filed Apr. 12, 1948. Edmund L. Smith
Clerk. [110]

[TRUSTEE'S EXHIBIT NO. 1]

[Hearing of April 5, 1946]

Received from Estate of Emily S. Donahue, Dec'd

| | | |
|-----------------------------------|-------------|-------------|
| Cash legacy | \$10,000.00 | |
| Executrix' fee cash | 1,500.00 | |
| | <hr/> | |
| | \$11,500.00 | \$11,500.00 |
| Out of agreement for distribution | | |
| 1824 S Vermont Ave net | | 6,400.00 |
| | | <hr/> |
| Total | | \$17,900.00 |
| Received from Bank | 1,000.00 | |
| “ Yarbrough net sale | 150.00 | |
| “ payments | 160.00 | |
| Rent Virginia Ave property | | |
| 2 mos. | 120.00 | |
| George Douillard note | 800.00 | |
| Stadelman note | 200.00 | |
| Homestead | 1000.00 | |
| Rent from Glendale property | 140.00 | |
| | <hr/> | |
| | 3,570.00 | 3,570.00 |
| | <hr/> | <hr/> |
| | | \$21,470.00 |

* * * * * * * *

Paid out:

| | |
|------------------------------------|------------|
| Cash to the Estate | \$ 4764.66 |
| 1732 S. Vermont Ave | 375.00 |
| Inheritance tax | 373.83 |
| Vermont Ave tax | 375.00 |
| 2 payments @ \$50.00 | 100.00 |
| Net purchase price on Virginia Ave | 1000.00 |

| | |
|--|------------|
| 2nd payment on mortgage on " " | 1000.00 |
| 3rd payment on mortgage on Virginia Ave | 1000.00 |
| Cost building cottage rear of " | 1700.00 |
| Division of Virginia Ave house | 1000.00 |
| Furniture for cottage (rear) | 500.00 |
| 3 incinerators | 100.00 |
| Down payment on Glendale property | 1750.00 |
| Roofing | \$150.00 |
| Painting inside | 175.00 |
| Heater and sink | 125.00 |
| George Douillard cottage | 1500.00 |
| " " lot \$501; and car \$90.00 | 591.00 |
| " " clothes and food | 100.00 |
| <hr/> | |
| Carried forward | 18009.49 |
| | [111] |
| Paid out: Brought forward | \$18009.49 |
| Repaid bank | 1000.00 |
| Loan to Stadelman | 375.00 |
| Tax on Glendale property 1/2 year | 40.00 |
| Tax on Virginia property 1½ yr | 240.00 |
| Insurance on Virginia Ave property | 13.00 |
| " " Glendale property | 13.00 |
| Depositions in Douillard vs Woodd | 100.00 |
| Briefs and appeal | 300.00 |
| Living expenses and several trips to S F etc | 1379.51 |
| <hr/> | |
| | \$21470.00 |

U. S. District Court No. 44032B. Trustee's Exhibit No. 1. Filed April 5, 1946. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [112]

[TRUSTEE'S EXHIBIT NO. 2]

[Hearing of April 5, 1946]

Receipts of Melanie D. Woodd from Estate of Emily S. Donahue, Dec.

| | |
|---|-----------|
| From 1824 S Vermont, Sales price net | \$6400.00 |
| From 1732-34 S Vermont (foreclosed) | 0 |
| Special legacy | 10000.00 |
| Executrix commission | 880.00 |
| Rents from Sept. '39 to Apr. '40 | |
| on Glendale property | 245.00 |
| Rents from Aug. '39 to Apr. '40 | |
| on Virginia Ave property | 480.00 |
| Selling price of George Douillard place | 800.00 |
| Cash on sale of 1160 N Hobart Blvd to | |
| F Gramer Yarbrough et ux. | 150.00 |
| 16 mos. of payments of Yarbrough | |
| Dec. '38 to Apr. '40 | 160.00 |
| Rents on Virginia Ave cottage | |
| June '39 to April '40 | 275.00 |

Total

\$19390.00

* * * * * * *

Expenditures:

| | |
|--|------------|
| Cash paid in re settlement of estate | \$ 4764.66 |
| Inheritance tax | 375.00 |
| Cost of building cottage at rear of | |
| Virginia Ave property | 2000.00 |
| Cash remodeling Virginia Ave into duplex | 1000.00 |
| Purchase price of Virginia Ave property | 3000.00 |
| Moving one and building 2 garages | 400.00 |
| Furniture cost Virginia Ave duplex | 1000.00 |
| " " " " rear cottage | 500.00 |
| Roof on Glendale Ave property | 150.00 |
| Purchase of Glendale Ave property pay't | 1750.00 |

| | |
|--|--------|
| Remodeling Glendale property, sinks | 75.00 |
| “ “ heater \$40, painting \$175 | 215.00 |
| “ “ property, incinerator cost | 25.00 |
| Cost of automobile for Louis Douillard | 600.00 |
| “ “ “ “ Geo. Douillard | 90.00 |

\$15944.66

[113]

| | |
|---|-------------|
| Brought forward | \$15,944.66 |
| Cost of cottage and lot for George Douillard | 2,001.00 |
| Taxes 1940 on Glendale and Virginia property | 120.00 |
| Building room for Louis Douillard | 250.00 |
| 7 payments on encumbrance on Virginia Ave property | 260.00 |
| 6 “ “ “ “ Glendale Ave property | 180.00 |
| 2 payments on property sold to Yarbrough before sale | 100.00 |

Total \$18,875.66

Receipts \$19,390.00

Expenditures \$18,875.66

Remainder \$ 414.34

The above remainder was used for living expenses and costs of appeal in the case of Emile A. Douillard et al., Plaintiffs, vs. Melanie D. Woodd, Defendant, No. 435718 Superior Court, Los Angeles Co.

U. S. District Court No. 44032-B. Trustee's Exhibit No. 2. Filed April 5, 1946. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk [114]

[TRUSTEE'S EXHIBIT NO. 3]

[Hearing of December 23, 1946]

SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES

[Illegible] 19.....

Credit Escrow No. [Illegible]

Cash S. F. N.—Escrow Funds

Checks for collection:

On [Illegible] \$ [Illegible]

..... [Illegible]

Maker [Illegible]

Indorser

Received above from

TOTAL \$ [Illegible]

..... [Illegible]

To be used in accordance with written instructions in
said escrow.

This Bank in receiving notes, drafts, checks and other items for collection, will transmit the same in the usual manner for collection, either to the bank on which the same are drawn, or to such bank or persons as it may deem reliable, with the express understanding that the same is done solely for the account and convenience of the depositor, and that this Bank shall in no way be liable for default of any such bank, person or sub-agents, or for loss in transit, or for any cause whatever, until the proceeds in actual cash shall come into its possession.

Fifth & Spring Office Branch

By H. G. Yohler

(This space for bank use only)

Date received

Teller

SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES

January 11, 1946

Credit Escrow No. 1-29015-D

Cash S. F. N.—Escrow Funds

Checks for collection:

On Calif. Bk. \$2,350 00

Cashiers Check

Maker

Indorser

Received above from

TOTAL \$2,350 00

A. P. Garnier

To be used in accordance with written instructions in
said escrow.

This Bank in receiving notes, drafts, checks and other items for collection, will transmit the same in the usual manner for collection, either to the bank on which the same are drawn, or to such bank or persons as it may deem reliable, with the express understanding that the same is done solely for the account and convenience of the depositor, and that this Bank shall in no way be liable for default of any such bank, person or sub-agents, or for loss in transit, or for any cause whatever, until the proceeds in actual cash shall come into its possession.

Fifth & Spring Office Branch

By B. Tisdale,

(This space for bank use only)

Date received

Teller

2317 5-44* 100 15Y

[Stamped]: 1 BOLSON S.F.N.B.

[BACK OF CHECK]

[Written] :

Daniel A Knapp

Myra C Knapp

[Stamped] :

The Farmers and Merchants National Bank of Los Angeles, Calif.

Jan 30 1946

Pay to the Order of any Bank or Banker or through Los Angeles Clearing House 1

[FACE OF CHECK]

16-4 12

Fifth & Spring Office
SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES
502 South Spring

No. 108217

Los Angeles, January 28, 1946

Pay to the Order of Daniel A. Knapp.....\$1200.00

The sum of \$1200 and 00 Cts Dollars

41 Savings

Payment Under Escrow No. 1-29015-D

by [Signature illegible]

Authorized Signature

Escrow Check [115]

[BACK OF CHECK]

[Written]:

Anna L. Hovey

M. L. Hovey

[Stamped]:

91 Washington & Vermont Branch 91

16-276

Feb 1 1946

Pay to the Order of any Bank or Banker or through
Los Angeles Clearing House

All Prior Endorsements Guaranteed

Security-First National Bank

16-3 of Los Angeles 16-3

[FACE OF CHECK]

16-4 12

Fifth & Spring Office
SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES
502 South Spring

No. 108216

Los Angeles, January 28, 1946

Pay to the Order of

M. L. Hovey and Anna L. Hovey.....\$1051.94

The sum of \$1051 and 94 Cts Dollars

Payment Under Escrow No. 1-29015-D

by [Signature illegible]

Authorized Signature

Escrow Check

3207 10-43* 50 P.S.

SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES

BENEFICIARY'S STATEMENT
(For Bank or F.H.A. Loan)

Los Angeles, California, January 4, 1946

Security-First National Bank of Los Angeles
Fifth and Spring Office

Your Escrow No. 1-29015-D

Attention: H. A. Dohlen, Escrow Dept.

We hold a \$750.00 promissory note executed by M. L. Hovey, Anna L. Hovey & Melanie D. Woodd, dated
filed for record November 28, 1945
August 2, 1945, secured by a Trust Deed / recorded in
Book....., Page....., of Official Records of.....
.....County, California. Said note is due and pay-
able monthly in installments of \$20. each (interest in-
cluded) on the 15th day of each and every calendar
month commencing September 15, 1945, and continuing
and
until said principal / interest have been paid.

(If F.H.A. Loan) The last gross monthly payment,
which amount is subject to change, was as follows:

| | |
|---|---------|
| Mortgage Insurance Premium | \$..... |
| Fire Insurance Premium | \$..... |
| Taxes and Assessments | \$..... |
| Principal and Interest | \$..... |
| Total Present Gross Monthly Payment . . | \$..... |

The funds now impounded by the undersigned are as follows:

| | |
|--|---------|
| (For Taxes and/or Assessments, etc. . . . | \$..... |
| (For Fire and/or Other Insurance . . . | \$..... |
| ((If F.H.A. Loan) For Mortgage Insurance | \$..... |

The unpaid principal balance of said obligation, is \$670.00. Interest on said note is adjusted to accrue from December 28, 1945. The rate of interest is 6% per annum, payable monthly.

(If F.H.A. Loan) The Mortgage Insurance Premium on the basis of \$.....per annum has been paid by the undersigned to the Federal Housing Administration for insurance to....., 19..... A bonus of \$..... (1% of original amount of the loan) has accrued as a result of an excess payment of more than 15% of the original amount of the loan having been paid in one year. This bonus is not payable until the loan is paid in full.

We enclose

- (1) Policy No. D 61231 of Milwaukee Mechanics' Insurance Company for \$2000. exp. 8-14-46.
- (2) Guaranty form in duplicate, original to be signed by new owners and returned to us.

INSTRUCTIONS

1. Please acknowledge receipt of this statement and inclosures on the copy of this statement and return the copy to us at once.
2. At completion of your escrow, return all fire insurance policies to us without alteration excepting transfer into names of new owners (if sale) in the manner in which title is vested. Second mortgage clause may be

added provided such clause recites that rights of junior encumbrancer are subject to rights of this Bank under its loss payable clause.

3. At completion of your escrow, advise us of name and address of new owners and/or junior encumbrancers and forward to us your check for \$2.50 to cover our fee in this matter.

In reply address Trust Loan Division Branch, referring to Loan No. SS-1859/Rel 9.

Attention of A. C. Dick.

SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES

Prepared by B. Kurt.

Checked by Sandborgh.

By A. C. Dick

Authorized Signature

Receipt of a copy of this statement is acknowledged
....., 19.....

.....

.....[116]

(Prepare in triplicate—two copies to be forwarded—third copy to be retained in loan file.)

SECURITY-FIRST NATIONAL
BANK OF LOS ANGELES

Escrow Instructions Buyer

Buyer & Seller

Escrow No. 1-29015-D

December 27, 1945

To Security-First National Bank of Los Angeles

1. I will hand you \$2400.00
2.
3.
4.
5.
6.
7. and any additional funds and instruments, required
8. from me to enable you to comply with these instruc-
9. tions, which you are to use provided on or before
10. February 11, 1946, instruments have been filed for
11. record entitling you to procure.....
12.
13.
14.
15.
16.
17. as per map recorded in Book 14, Pages 122-123, of
18. Maps.....in the office of the Recorder of said County,
19. showing Title vested in A. P. Garnier, a single man.

MEMO.

| | |
|-----------------------------|---------|
| Paid outside of Escrow..... | \$..... |
| Cash through Escrow | 2400 00 |
| Encumbrances of Record..... | 600 00 |
| New Encumbrances | |
| Total consideration..... | 3000 00 |

20. Free of encumbrances except: Second installment
 21. of Taxes for fiscal year 1945, 1946, and taxes
 22. which are not yet due; including personal property
 - taxes of any former owner, if any; also including
 - levies of any of those special districts approved
 - herein, payment of which is included therein and
 - collected therewith.
 23. Covenants, conditions, restrictions, reservations,
 - rights of way, easements and the exception of
 - water on or under said land, now of record, if any.
 24.
 25.
 26.
 27. Mortgage or Trust Deed securing an indebtedness
 28. as per its terms, now of record, Lender's statement
 29. to show an unpaid balance of principal of \$600.00,
 - but if same should show to be more or less than said
 - amount, then you are to keep the total consideration
 - the same as shown above, by accordingly adjusting
 - the cash through escrow.....
 30.
- * * * * *
- [117]

(Page Two)

68. Affix \$2.75 U. S. R. Stamps on deed, to be paid
- by Buyer.
69. The following adjustments are required in this
- escrow:
70. Interest on Mortgages and/or Trust Deeds of
71. record and any funds shown impounded for future
- payments of taxes, insurance, etc., or Mortgage
- insurance premium paid F.H.A. during past 12
- months, based on Beneficiary's statement to close
- of escrow.

72. Interest on new encumbrances by endorsements on notes to none.
73. Taxes, including all items appearing on tax bill
74. except taxes on personal property not conveyed through this escrow, to close of escrow based on latest tax statement in your possession.
75. Rentals on basis of statement furnished by seller,
76. to close of escrow, and you are to consider on
77. basis of said rent statement, that seller will collect all rents which fall due prior to the close of this escrow, unless he instructs you in writing to the contrary. No adjustment against buyer on uncollected rentals Statement: \$35.00 per mo. paid to 1/9/46.
78.
79.
80. Premium on.....Fire Insurance Policies to
81. Close of escrow on building situated either on prop-
82. erty described above or on premises known as No. 1255 South Glendale Avenue, Glendale, California. You may assume that premiums on said policies have been paid and that the policies have not been hypothecated.

Make prorations on basis 30-day month. "Close of escrow" shall mean the day papers are filed for record. Make disbursements by your check. Mail fire insurance policies to holder of first encumbrance, if any. Mail title policies to holder of first encumbrance being recorded concurrently herewith, if any, or one of record on which substitution of liability is being made, if any. Other documents and checks in my favor to be mailed to my

address below. If title policy is to be obtained, procure it from any title company operating in county where property is located, subject to exceptions and conditions contained in said company's regular printed form.

I agree to pay on demand for recording deed, mortgage clause on insurance, filling in Trust Deed, filling in, notarizing and recording any other documents necessary on my part, and buyer's escrow fee as charged Buyer to pay all charges and those on lines 101-103 below.

Grantor agrees to clear property being conveyed, before delinquency, of any tax on property not included herein. You are not to be concerned with same.

It is satisfactory should property described herein lie within any of the following Municipal Improvement Districts: Avalon No. 1, Beverly Hills Nos. 1, 2, 4 and 5, Culver City Nos. 1, 2, 3 and 5, Glendale Nos. 3, 4 and 7, Huntington Park No. 3, Inglewood Nos. 1 and 2, Pasadena No. 2, Santa Monica No. 1, Vernon Nos. 1 and 2 and Los Angeles Nos. 2, 9, 11, 17, 18, 19, 20, 22, 23, 27, 31, 36, 42, 45, 47 57 58 60, 68, 69 and 73. No adjustment is required in connection with same. Should the title company to which the order for the assurance of title is given show that said property lies within a Mattoon or other special assessment district, not approved by me, you are not to use said money and/or Instruments or complete the escrow.

If the conditions of this escrow have not been complied with at the time provided herein you are nevertheless to complete the same as soon as the conditions (except as to time) have been complied with, unless I shall have made written demand upon you for the return of money and/or instruments deposited by me.

You shall be under no obligation or liability for failure to inform me regarding any sale, loan, exchange, or other transaction, or facts within your knowledge, even though same concern the property described herein, provided they do not prevent your compliance with these instructions, nor shall you be liable for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited, nor as to identity, authority, or rights of any person executing the same. Your liability as escrow holder shall be confined to the things specifically provided for in my written instructions in this escrow.

In the event conflicting demands are made or notices served upon you with respect to this escrow, the parties hereto expressly agree that you shall have the absolute right at your election to do either or both of the following things: Withhold and stop all further proceedings in and performance of this escrow, or file a suit in interpleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and rights amongst themselves. In the event such interpleader suit is brought, you shall ipso facto be fully released and discharged from all obligations to further perform any and all duties or obligations imposed upon you in this escrow, and the parties jointly and severally agree to pay you all costs, expenses, and reasonable attorneys' fees expended or incurred by you, the amount thereof to be fixed and a judgment thereof to be rendered by the court in such suit.

All parties further agree, jointly and severally, to pay on demand, as well as to indemnify and hold you harmless from and against all costs, damages, judgments, attorney's fees, expenses, obligations and liabilities of every kind

or nature suffered or incurred in connection with or arising out of this escrow.

Buyer's Signature.....

Address

(City)

Phone.....

Buyer's Signature A. P. Garnier

Address 4057 Beverly Blvd., Los Angeles 4, Calif.

(City)

Phone NO. 22995

SELLER

December 27, 1945.

83. The Foregoing Terms, Conditions and/or Instruc-
84. tions Are Hereby Concurred in, Approved and
85. Accepted. I will hand you all instruments and
86. money necessary for me to comply therewith, in-
87. cluding a deed of the property described, executed
88. by M. L. Hovey and Anna L. Hovey, husband
89. and wife which you are authorized to deliver
provided you hold in this escrow for the account of
the parties executing said deed.....

..... the money.....

(Use this space only if money is to be payable to others than grantors)
and instruments deliverable to be under these in-
structions. When property being conveyed is held
in Joint Tenancy any cash derived therefrom in this
escrow shall be Joint Tenancy funds. Pay at close
of escrow any encumbrances necessary to place
title in the condition called for and the following:

90.

91. Pay commission of none to.....

92. (Real Estate Broker's License No.....),
whose address is.....
93. The Seller authorizes you to pay Daniel A. Knapp,
94. 424 Black Bldg., 4th and Hill Streets, Los Angeles,
the sum of \$1200.00.
95.
96.
97.
98.
99.
100. You will, as my agent, assign any fire and other
insurance of mine handed you or that Beneficiaries
inform you they hold.
101. I agree to pay on demand charges and expenses
102. incurred by you for me, including charges for title
103. assurance, for sending in offset statements and
beneficiaries' statements and/or demands, convey-
ancing charges, recording charges including the
recording of purchase price encumbrances, transfer
of fire insurance if prorated, and seller's escrow
fee as charged Buyer to pay all charges.
104. Credit balance to.....account No.....in name
105. of or.....
in your.....Branch.

Seller's Signature.....

Address

(City)

Phone.....

Seller's Signature M. L. Hovey

Address 1675 West Washington Blvd., Los Angeles 7

(City)

Phone PA. 0229. [118]

SECURITY-FIRST NATIONAL
BANK OF LOS ANGELES

Escrow Instructions

Buyer

Buyer & Seller

Escrow No. 1-29015-D

December 27, 1945

* * * * *

[Escrow Instructions same as instructions on pages 101 to 107 of Transcript of Record with exception of the following:]

* * * * * [119]

Buyer's Signature [No Signature]

Address 4057 Beverly Blvd., Los Angeles 4, Calif.
(City)

Phone NO. 22995

* * * * *

Seller's Signature X Anna L. Hovey

Address 3327 Hollydale Dr.

(City)

Phone.....

Seller's Signature M. L. Hovey

Address 1675 West Washington Blvd., Los Angeles 7
(City)

Phone PA. 0229. [120]

2244 2-45* 15Y (30Y if F.H.A.)

SECURITY-FIRST NATIONAL BANK
OF LOS ANGELES

ESCROW SETTLEMENT SHEET

Check if F.H.A. ☐ Escrow No. 1-29015D

Name Hovey

Name Garnier

Address

Address

(Seller/Borrower)

Sale

(Buyer)

SETTLEMENT

| Debits | Credits | | Debits | Credits |
|----------|----------|---|---------------|----------|
| | | Deposit | | 2 450 |
| | 2 400 | Demand for Deed Note | 2400 | |
| 70 | | Adj. on Trust Deed from \$600 to \$670. | | 70 |
| 1 56 | | Interest \$670 @ 6% 12/28/45 to 1/12/46 | | 1 56 |
| | | Mtg. Ins. | | |
| 2 59 | | Taxes 2½ \$42.42 6 Mo. 1/1/46-1/12/46 | | 2 59 |
| 31 50 | | Rents \$35 Mo. 1-12-46 to 2-9-46 | | 31 50 |
| | | Insurance Prin \$13 3y 1/12/46 to 8/14/46 | 2 55 | |
| | | Commission None | | |
| 1 200 | | Payoffs Daniel A. Knapp | | |
| | | Beneficiary's Fee for Furnishing Demand and/or Statem't | 2 50 | |
| | | Impounded: Mtg. Ins. Taxes Fire Ins. | | |
| | | Bldg. A/C Mech. Lien Rpt. Record N/C | | |
| | | Lot Inspection | | |
| | | Title Co.'s Charge for Assurance of Title | 27 50 | |
| | | Reconveyance Fee | | |
| | | Revenue Stamps | 2 75 | |
| | | Recording Deed | 1 | |
| | | Recording Trust Deed | | |
| | | Recording Recon. | | |
| 44 96 | | Recording | | |
| | | Taxes 1st ½ 42.42 plus \$2.54 Pen (Paid) | | |
| | | Special Assessments | | |
| | | Tax Service | | |
| | | Insurance { Add'l. Coverage Ext'd. Coverage | | |
| | | Transfer | 25 | |
| | | Mtg. Clause | | |
| | | Real Estate Loan Fee | | |
| | | Esc. Fee-Sale Pur. Loan Exch. | 18 | |
| | | Drawing Deed | 1 50 | |
| | | Drawing Trust Deed | | |
| | | Drawing | | |
| | | Notary | | |
| | | Deposited Acct. of— | | |
| 1 051 94 | | Check | Bal. Due Bank | 99 60 |
| 2 402 55 | 2 402 55 | | 2 555 65 | 2 555 65 |

LEDGER

| Date | | Dr. | Cr. | Balance |
|------------|---------------|----------|-------|---------|
| Dec 24 '45 | A. P. Garnier | | 100 | 100 |
| Jan 11 '46 | A. P. Garnier | | 2 350 | 2 450 |
| Jan 28 '46 | Memo | 2 405 04 | | 44 96 |
| Feb 6 '46 | Memo | 44 96 | | C |

DISBURSEMENTS

| Date | Check No. | | Amount |
|------------|-----------|--|----------|
| Jan 28 '46 | 108215 | A. P. Garnier | 99 60 |
| Jan 28 '46 | 108216 | M. L. Hovey & Anna L. Hovey | 1 051 94 |
| Jan 28 '46 | M | Trust Loan Div Head Office | 2 50 |
| Feb 6 '46 | 108269 | Tax M. L. and Anna L. Hovey | 44 96 |
| Jan 28 '46 | 108217 | Daniel A. Knapp | 1 200 |
| Jan 28 '46 | M | Acct. Title Ins. & Tr. Co. Order No. 2316087 | 31 25 |
| | | Acct. Co. Order No. | |
| | | Recon. Fee | |
| Jan 28 '46 | M | Insurance | 25 |
| | | Real Estate Loan Fee | |
| | | Tax Service | |
| | | S.F.N. Bldg. Loan Acct. | |
| | | Suspense Acct.—Impounded Funds | |
| Jan 28 '46 | M | Escrow Fee, Drawing Documents & Notary Fee | 19 50 |
| TOTAL | | | 2 450 |

Settlement Date
 Made by Wilson 1/23/46
 Examined by Dahlen
 Recorded 1/12/46
 REMARKS
 Endorse interest on
 \$. note to

 advise seller to bring
 in receipted tax bill for
 1st Inst 1945-6 taxes so
 that we can refund the
 \$44.95 held for said taxes

DISPOSITION OF DOCUMENTS

| Mail | Hold | Documents | Name and Address |
|------|------|--------------------|------------------|
| | | Assurance of Title | |
| | | Fire Insurance | |
| | | New Note | |
| | | Tax Receipt | |

SALE

| | |
|-------------------------|-------|
| Paid outside of Escrow | |
| Cash through Escrow | 2 400 |
| Encumbrances of Records | 600 |
| New Encumbrances | |
| Total consideration | 3 000 |

WOODD, MELANIE D.

Account No. 219672

| Date | Withdrawn | Interest | Deposited | Balance |
|------------------------|-----------|----------|-----------|---------|
| Aug 15 '39 | | 13 | 25 | 25 |
| Aug 21 '39 | | 09 | 19 75 | 44 95 |
| Sep [?] | | 1 10 | 900 | 944 95 |
| Sep [?] | | | 19 75 | 964 50 |
| Sep 19 '39 NE | 75 | | | 889 50 |
| Sep 25 '39 NE | 100 | | | 789 50 |
| Sep 29 '39 NE | 89 50 | | | 700 |
| [?] | | | 19 75 | 719 75 |
| Oct 16 '39 NE | 50 | | | 669 75 |
| Oct 18 '39 | | | 9 75 | 679 50 |
| Oct 23 '39 | 50 | | | 629 50 |
| Oct 26 '39 | 25 | | | 604 50 |
| Nov 6 '39 | 300 | | | 304 50 |
| Nov 13 '39 | 4 50 | | | 300 |
| Nov 15 '39 | | | 19 75 | 319 75 |
| Nov 18 '39 | | | 9 75 | 329 50 |
| Dec 15 '39 | | | 9 75 | 339 25 |
| Dec 19 '39 | | | 19 75 | 359 |
| Dec. 31, 1939 Interest | | | 1 32 | 360 32 |
| Jan 12 '40 | 35 | | | 325 32 |
| Jan 16 '40 | | | 9 75 | 335 07 |
| Feb 5 '40 | 50 | | | 285 07 |
| Feb 6 '40 | | | 19 65 | 304 72 |
| Feb 13 '40 | 154 72 | | | 150 |
| Feb 13 '40 | | | 19 75 | 169 75 |
| Feb 15 '40 | | | 9 75 | 179 50 |
| Feb 23 '40 | 5 | | | 174 50 |
| Feb 26 '40 | 74 50 | | | 100 |
| Mar 14 '40 | 50 | | | 50 |
| Mar 14 '40 | | | 19 75 | 69 75 |
| Mar 16 '40 | 69 75 | | | |

Forward

Security Office Account No. 585201

MELANIE D. WOODD

| Date | Withdrawn | Interest | Deposited | Balance |
|------------------------|-----------|----------|-----------|----------|
| Sep 22 '38 | | 02 | 5 | |
| Sep 22 '38 | | 03 | 9 15 | 14 15 |
| Sep 27 '38 | | 1 50 | 400 | 414 15 |
| Oct 19 '38 | Douillard | | 9 75 | 423 90 |
| Nov 3 '38 | | | 199 94 | 623 84 |
| Nov 19 '38 | " | 1 55 | 9 75 | 633 59 |
| Nov 23 '38 | 15 | | | 618 59 |
| Nov 26 '38 | 200 | | | 418 59 |
| Dec 12 '38 | 15 | | | 403 59 |
| Dec. 31, 1938 Interest | | | 1 55 | 405 14 |
| Feb 11 '39 | 50 | | | 355 14 |
| Feb 17 '39 | 40 | | | 315 14 |
| Mar 10 '39 | 15 14 | | | 300 |
| Mar 13 '39 | | | 50 | 350 |
| Mar 14 '39 | 30 | | | 320 |
| Mar 20 '39 | 50 | | | 270 |
| Mar 28 '39 | 15 | | | 255 |
| Apr 5 - '39 | 40 | | | 215 |
| Apr - 8 '39 | | | 6 790 55 | 7 005 55 |
| Apr 10 '39 | 6 805 55 | | | 200 |
| Apr 12 '39 | 200 | | | |
| | | | | None |

Return To
Records Storage Warehouse
Los Angeles, California

Forward

Account No. 50917

Melanie D. Woodd
Western & Santa Monica

| Date | Withdrawn | Interest | Deposited | Balance |
|--------------|-----------|----------|-----------|---------|
| May 22 1939 | | | 500 | 500 |
| May 23 1939 | | | 4 000 | 4 500 |
| Jun 3 1939 | | | 1 000 | 5 500 |
| Jun 5 1939 | 100 | | | 5 400 |
| Jun 10 1939 | 50 | | | 5 350 |
| Jun 14 1939 | 50 | | | 5 300 |
| Jun 16 1939 | 200 | | | 5 100 |
| Jun 23 1939 | 5 100 | | | |
| | | | Reopened | |
| Jul 18 1939 | | | 2 000 | 2 000 |
| Jul 18 1939 | 125 | | | 1 875 |
| Jul 27 1939 | 175 | | | 1 700 |
| Jul 31 1939 | 100 | | | 1 600 |
| Aug 9 - 1939 | 50 | | | 1 550 |
| Aug 10 1939 | 150 | | | 1 400 |
| Aug 17 1939 | 50 | | | 1 350 |
| Aug 18 1939 | 150 | | | 1 200 |
| Aug 28 1939 | 100 | | | 1 100 |
| Sep 8 1939 | 100 | | | 1 000 |
| Sep 15 1939 | 1 000 | | | |
| Forward | | | | |

2399* K.I. Term Savings Ledger Card—Security-First National Bank of
Los Angeles

U. S. District Court No. 44032-B. Trustee's Exhibit
No. 3. Filed Dec. 23/46. Hubert F. Laugharn,
Referee.

[Endorsed]: Filed April 12, 1948. Edmund L. Smith,
Clerk. [124]

[TRUSTEE'S EXHIBIT NO. 1]

[Hearing of January 20, 1948]

424108

251455

FRED W. HEATH

Attorney at Law

424 Black Building

MIchigan 6929

So Pasadena

Los Angeles, Calif., Apr. 22d 43.

Dear Edna:

Every night when I go out to my lonely bed I feel less assurance than I did the previous nite that I will be here when morning comes, so just to be prepared

I want you to have whatever there is belonging to me when I die.

I make no provision for the children as I know you will.

Mrs. Wilson is about paid up. I get 10% of the amt for which she sells her house, less about \$1,000 advanced.

Santa Rosa Mining Co. owes me \$5000

I have a half interest in any money collected on the Lundquist Kruse judgment, about \$2500.00.

I have a half int in the Currie Walterson judgment now about 8,000.00 due.

Mrs. Woodd owes me about \$1,000 represented in the Hovey vs Woodd judgment.

The balance due on my Morales Mtg note about \$125. The Morales Mtg note is all mine. [125]

108-A

The 2.50 gold piece I expected to go to Katherine;

Roland H. Wiley, Las Vegas Atty has a new set of Nevada Stats worth \$50 which belongs to me. No strings on it.

Other odds and ends amount to practically nothing.

If I should forget to wake up some morning it will be a nice way out as I am burden enough while I am able to be my own nurse & valet.

Don't spend any money on a funeral buy war bonds instead.

I want you to execute my will, without bond.

Dated April 22, 1943.

Fred W. Heath
Testator

251455

Admitted to Probate Feb. 14, 1946. Attest: J. F. Moroney, County Clerk; by Ed Roberts, Deputy.

Filed Jan. 23, 1946. J. F. Moroney, County Clerk; by H. L. Doyle, Deputy. [126]

The document to which this certification is attached is a full, true and corect copy of the original on file and of record in my office: Attest: Dec. 27th, 1946. J. F. Moroney, County Clerk and Clerk of the Superior Court of the State of California in and for the County of Los Angeles. By J. M. Garland, Deputy.

U. S. District Court No. 44032-B. Trustee's Exhibit No. 1. Filed January 20, 1948. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [127]

[TRUSTEE'S EXHIBIT NO. 1]

[Hearing of February 6, 1948]

GRANT DEED

M. L. Hovey and Anna Hovey, husband and wife, of Los Angeles, California, in consideration of Ten Dollars, and other valuable Considerations, receipt whereof is hereby acknowledged,

Do Hereby Grant To Fred. W. Heath, a married man, of Los Angeles, California, as his sole and separate property and estate, the real property in the City of Los Angeles, County of Los Angeles, State of California, described as;

The South one hundred eight feet (108) of Lot eight (8) of the Zahn Tract, as per Map recorded in Book 12, at page 127 of Maps, in the office of the Recorder of said Los Angeles County. Subject, however, to easements, and restrictions of record, and to the unpaid balance of a trust deed note held by Security-First National Bank, now of record.

Also Lot eleven (11), in Tract No. three hundred fourteen (314) as per map thereof recorded in Book 14, pages 122 and 123 of Records of Los Angeles County.

Subject, however, to easements and restrictions of record, and to the unpaid balance of a trust deed note held by Security-First National Bank, now of record.

To Have and to Hold, unto said Grantee, his heirs and assigns, forever.

October

Witness Our Hands this 14 day of ~~September~~, 1943.

M. L. Hovey

Anna Hovey [128]

ACKNOWLEDGEMENT

State of California

County of Los Angeles—ss.

On this 14 day of October 1943 before me, a Notary Public in and for said County, duly commissioned and sworn, residing therein, personally appeared M. L. Hovey and Anna Hovey, husband & wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same.

Witness my hand and Notarial Seal the date hereinabove written.

[Seal]

Florence A. Bartels,

Notary Public.

My commission expires 3/26/47. [129]

2081

Req

When recorded return to Estate of Fred W. Heath, dec. c/o Daniel A. Knapp 1151 So Broadway Room 744 Los Angeles 15, Calif.

Document No. 2081 Recorded at Request of.....
Jan 19 1948 21 Min Past 12 M.

Official Records

County of Los Angeles, California

Fee \$..... Folios

MAME B. BEATTY, County Recorder

By.....Deputy.

State of California,
County of Los Angeles—ss.

I hereby certify the foregoing to be a full, true and correct copy of the original instrument filed for record 1-19, 1948 Document No. 2081.

In Witness Whereof, I have hereunto set my hand and affixed my Official Seal, this 4th day of Feb., 1948.

MAME B. BEATTY, County Recorder
By E. Post, Deputy.

U. S. District Court No. 44032-B. Trustee's Exhibit No. 1. Filed Feb. 6/48. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [130]

[BANKRUPT'S EXHIBIT NO. 1]

[Hearing of April 5, 1946]

In the Superior Court of the State of California, in and for the County of Los Angeles.

Emile A. Douillard, Plaintiff, vs. Lloyd C. Smith, Florence Smith, Melanie D. Woodd, M. L. Hovey, Daniel A. Knapp and Fred W. Heath, Defendants. No. 486331.

FINDINGS OF FACT AND CONCLUSIONS
OF LAW

This cause came on regularly for trial on the 19th day of April, 1944, before the Court, Department 17, sitting without a jury, a jury having been waived by both plaintiff and defendants, Honorable Carl A. Stutsman, Judge pre-

siding; plaintiff being present in Court and being represented by J. M. Clements, Esq. and Thomas Higgins, Esq. By James M. Clements, Esq. and Robert E. Austin, Esq., and John N. Helmick, Esq., by Robert E. Austin, Esq.; defendant Melanie D. Woodd appeared in propria persona; defendants Lloyd C. Smith and Florence Smith were dismissed from the action and did not appear at the trial; defendants M. L. Hovey, Daniel A. Knapp and Fred W. Heath were present in person and represented by Daniel A. Knapp, Esq. and Fred W. Heath, Esq.; the trial not having been concluded on April 19th, 1944, was continued to April 20th, 1944, and the trial proceeded, and not having been concluded on April 20th was continued to April 21st, 1944, on which day the trial was concluded; and evidence both oral and documentary having been introduced and the cause submitted for decision, the [131] Court having considered the evidence offered by plaintiff and by defendants, and being fully advised in the premises, now makes its Findings of Fact as follows:

FINDINGS OF FACT

I.

That it is true that on April 25th, 1940, plaintiff herein obtained a several judgment against Melanie D. Woodd, one of the defendants herein, for the sum of \$2500.00, in action No. 435718 in the Superior Court of the State of California, in and for the County of Los Angeles.

II.

That it is true that on or about October 15th, 1942, execution was levied on said judgment by the Sheriff of said Los Angeles County, on Lot 11, Tract 314, as per map thereof recorded in Book 14, Pages 122 and 123 of

Maps, in the office of the County Recorder of said Los Angeles County, being located in the City of Glendale, County of Los Angeles, State of California.

III.

That it is not true that on said October 15th, 1942 the said Melanie D. Woodd was then the owner of said property; and the Court finds that she was not the owner of any interest therein, other than a right of redemption pursuant to Sections 701-702 Code of Civil Procedure.

IV.

That *it true* that on March 15th, 1943, the said Sheriff made a sale of all of the right, title and interest of Melanie D. Woodd in said property to the plaintiff herein.

V.

That the allegations of Paragraph III of plaintiff's second amended complaint are true.

VI.

That it is not true that the defendants Woodd, Hovey, Heath [132] and Knapp conspired together, or with each other, or at all, as alleged in Paragraph IV of the second amended complaint, to so cloud and encumber, or cloud or encumber, the title to said property in fraud of the rights of said plaintiff.

That it is not true that the defendants Hovey, Heath and Knapp, or any one or more of them, for the purpose of carrying out any conspiracy, or for the purpose of defrauding plaintiff, filed the said action No. 450821 in the Superior Court of the State of California, in and for the County of Los Angeles, entitled "M. L. Hovey, Plaintiff, vs. Melanie D. Woodd, Defendant."

VII.

That the allegation is not true as set forth in Paragraph IV of said second amended complaint, wherein it is alleged that the allegation of indebtedness of Melanie D. Woodd to defendants Heath and Knapp, contained in the complaint in action No. 450821, was false.

That it is true that plaintiff M. L. Hovey in said action was the assignee of Fred W. Heath and Daniel A. Knapp, and it is true that nothing had been paid on said indebtedness and that there were no credits in favor of defendant Melanie D. Woodd, the defendant therein named.

VIII.

The Court finds that E. D. Martindale did not join the alleged or any conspiracy whatever in acting as attorney for Melanie D. Woodd the defendant in said action, as alleged in Paragraph V of said second amended complaint, or at all.

That as to the allegation in Paragraph V of said second amended complaint that the said Melanie D. Woodd did not owe anything to defendants Heath and Knapp prior to the filing of said action No. 450821, the same is untrue.

That it is not true that the judgment against Melanie D. Woodd and in favor of defendant M. L. Hovey, was procured by said defendants for the purpose of delaying or defrauding plaintiff out of the collection of his judgment. [133]

IX.

That it is true that an attachment was levied in the suit of Hovey vs. Woodd, No. 450821, on the property described in Finding II hereof on April 11th, 1940, and that a sale thereof upon execution issued upon the said

judgment of M. L. Hovey against Melanie D. Woodd was made to defendant Hovey on or about September 8th, 1942.

The Court finds that all the allegations of said second amended complaint other than those hereinbefore referred to in Paragraph VI thereof, are untrue.

X.

The Court finds that the allegations of Paragraph VII of said second amended complaint are true.

XI.

The Court finds that all the allegations of Paragraph VIII of said second amended complaint are untrue.

XII.

The Court finds that defendants did not, nor did any of them, falsely or fraudulently conspire together, or with any other person or persons, for the purpose of hindering or defrauding plaintiff, or clouding plaintiff's title to said property.

XIII.

The Court finds that all the allegations of the answers of defendants herein filed, are true.

CONCLUSIONS OF LAW

As Conclusions of Law from the foregoing Findings of Fact, the Court finds:

I.

That there was no fraud in law chargeable against the said defendants or any of them.

II.

That the execution sale in Action No. 450821 conveyed to M. L. Hovey all of the right, title and interest of Melanie D. Woodd [134] in and to the real property described in Paragraph II of the foregoing Findings of Fact.

III.

That plaintiff did not acquire and has not now any right, title or interest in or to said real property.

IV.

That defendants M. L. Hovey, Melanie D. Woodd, Fred W. Heath and Daniel A. Knapp are entitled to judgment against plaintiff for their costs of suit herein.

V.

That said plaintiff is entitled to take nothing by reason of his said second amended complaint.

Judgment is hereby ordered to be entered accordingly.
Dated: April 1944.

Judge of the Superior Court

Aug. 17, 1945 aff'd.

U. S. District Court, No. 44032B. Bankrupts Exhibit No. 1. Filed April 5/46. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Apr. 12, 1948. Edmund L. Smith, Clerk. [135]

[Title of District Court and Cause]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 139, inclusive, contain full, true and correct copies of Debtor's Petition; Schedule A-3; Orders of Adjudication and of General Reference; Proofs of Claim of Emile A. Douillard, Frank T. Douillard, Juliette Evans and Raymond F. Puissegur; Referee's Certificate on Review; Petition re Record on Appeal; Order re Record on Appeal; Referee's Supplemental Certificate on Review; Petition to Reopen Bankruptcy Proceedings; Order Reopening Estate for Further Administration; Petition for Order to Show Cause; Order to Show Cause; Answer of Edna D. Heath, etc. et al. to Order to Show Cause and Petition; Memorandum Opinion and Direction to Prepare Findings of Fact and Orders; Objections to Findings of Fact; Findings of Fact and Order; Petition for Review of Referee's Order; Order on Petition for Review of Referee's Order; Notice of Appeal; Cost Bond on Appeal; Substitution of Attorneys; Orders Extending Time to File Record and Docket Appeal; Order Substituting Myra C. Knapp etc. as Party Appellant and Petition therefor; Statement of Points on Which They Intend to Rely on Appeal; Designation of Contents of Record on Appeal; Respondent's Designation of Contents of Record on Appeal; Trustee's Exhibit No. 1 at Hearing of October 3, 1945; Trustee's Exhibits 1 and 2 at Hear-

ing of April 5, 1946; Trustee's Exhibit No. 3 at Hearing of December 23, 1946; Trustee's Exhibits Nos. 1, 2 and 3 at Hearing of January 20, 1947 and Bankrupt's Exhibit No. 1 at Hearing of April 5, 1946 which, together with copy of Reporter's Transcripts of proceedings on October 3, 1945, September 17 and October 16, 1945, December 13, 1946, March 28, April 5, December 12, 16 and 23, 1946 and January 20 and 23, 1947, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing record amount to \$34.20 which sum has been paid to me by appellants.

Witness my hand and the seal of said District Court this 19 day of April, A. D. 1948.

(Seal)

EDMUND L. SMITH

Clerk

By Theodore Hocke

Chief Deputy Clerk

[Title of District Court and Cause]

Before Honorable Hubert F. Laugharn
Referee in Bankruptcy

REPORTER'S TRANSCRIPT OF PROCEEDINGS
HAD IN THE ABOVE ENTITLED CAUSE,
HELD ON SEPTEMBER 17 and OCTOBER 16,
1945, AT FIRST MEETING OF CREDITORS

Appearances:

Leslie S. Bowden, Esq., 1102 Fidelity Bldg.—MI. 1371,
Los Angeles, California, for the Trustee, George Gog-
gin, Esq.

Earl F. Crandell, Esq., 304 South Broadway,—VA.
3445, Los Angeles, California, for the Bankrupt.

Robert E. Austin, Esq., 215 Stock Exchange Bldg.—
TU. 7773, Los Angeles, California, for Certain Creditors.

Melanie Douillard Woodd September 17, 1945
First Meeting of Creditors

The Referee: Melanie Douillard Woodd.

Mr. Crandell: Ready.

The Referee: Mr. Goggin will be appointed trustee.

MELANIE DOUILLARD WOODD,
having been first duly sworn, on oath testified as follows:

Mr. Austin: If the Court please, we have some things
here we want to file.

The Referee: Do you want to vote for a trustee?

Mr. Austin: If your Honor please, we had no one
particularly in mind for a trustee and we will leave that
up to the Court.

The Referee: I will appoint Mr. Goggin, then, and
he will cooperate with you.

Mr. Austin: That suits us very well.

(Testimony of Melanie Douillard Woodd)

Direct Examination

By Mr. Goggin:

Q. Are you married? A. No, I am a widow.

Q. How long have you been such?

A. Oh, fifteen or eighteen years; since I was thirty-two.

Q. Do you have any children? [2*] A. No.

Q. You are working at the Fifth Street Department Store? A. Yes sir.

Q. How long have you been employed there?

A. About two and a half years. I work four hours a day at fifty-five cents an hour.

Q. Do you have any other income? A. No sir.

Q. Do you have any real property? A. No sir.

Q. Any interest in any? A. No sir.

Q. Have you ever had? A. No sir.

Q. Do you have any war bonds?

A. What do you mean by "ever had"?

Q. Well, in the past five years have you had any interest in any real property? A. I don't think so.

Q. Do you have any war bonds? A. No sir.

Q. You show these creditors as having obtained a judgment against you. What was the nature of that litigation? A. Which one; there are several?

Q. Well, case No. 435718?

A. Emile A. Douillard? [3]

Q. Yes. A. That is the first one.

By the Referee:

Q. What did that arise out of; just explain it.

A. An oral agreement.

(Testimony of Melanie Douillard Woodd)

Q. For what? What was the background of it? They have a number of judgments against you; what was the agreement about? Why do they contend you owe them money?

A. They said I promised them part of my bequest.

Q. From what estate?

A. From my mother's estate.

Q. When did your mother die?

A. August, 1937.

Q. What did she leave?

A. Well, she left an estate of \$71,000.

Q. Where?

A. In Los Angeles and Manhattan Beach.

Q. She died here? A. Yes sir.

Q. And her proceedings are in the probate court?

A. Yes sir.

Q. Were you the only person who was to inherit the property?

A. No sir. There were two brothers, Emile Douillard and Frank Douillard.

Q. Each a third? [4]

A. No, each a one-fourth; my sister was dead and there were two grown children.

Q. And you were to get out of that something under \$20,000? A. No, it didn't come to \$20,000.

Q. What did it come to?

A. \$10,000 for my share and then a \$10,000 bequest.

Q. And you got \$20,000? A. Yes sir.

Q. When did you get that?

A. I got the \$10,000 in money, with the deductions for the court and all, and with the other I bought a building from my brothers; I paid them \$5,600 out of my \$10,000.

(Testimony of Melanie Douillard Woodd)

Q. When was that? A. In 1937.

Q. What happened to your \$10,000?

A. Well, the \$5600 was in there and then maybe \$500 for court fees and so forth, and then I bought an interest in a seven thousand dollar building on Vermont, for, I think it was \$500, and I had to pay three hundred and something to my brothers.

Q. What happened to the property; did you lose it all? A. Yes sir; I have lost it all.

Q. How was it lost?

A. I owed the attorney fees and they executed on my property. [5]

Q. How long ago?

A. I think in 1943, by sheriff's sale.

Q. And you lost everything? A. Yes sir.

Q. What was this oral agreement?

A. I didn't make it. They said I did and they lost and they took it to the Supreme Court.

Q. What did they say you did?

A. They say I promised to give them one-fourth of that.

Q. And you say you didn't? A. I didn't, no.

Q. It went through the court?

A. Yes. Judge Clark decided against me.

Q. And in the meantime you have lost all of the property? A. Yes sir.

Q. When have you had any assets, money, cash, or anything except your clothing, other than this salary you are earning?

A. I haven't had anything since some time in 1942 or '43; ever since it went into Dr. Hovey's hands.

Q. That is the first time you have mentioned him.

A. He is all through the suit.

(Testimony of Melanie Douillard Woodd)

Q. How long have you been working at this present place? A. About two and a half years.

Q. What did you do before that? [6]

A. Nothing.

Q. How much do you make now?

A. Fourteen or fifteen dollars a week.

Q. And that is your total support? A. Yes sir.

Q. Since you went to work there have you had any money, funds or property other than your salary?

A. No sir.

Q. Then that accounts for your last two and a half years? A. Yes sir.

Q. Do you have any mortgages, bonds or trust deeds or anything of that kind? A. No sir.

Q. How were you living two and a half years ago?

A. I had rentals there.

Q. And you lost this property? A. Yes sir.

Q. By foreclosure or sheriff's sale?

A. Sheriff's sale, and then I had a rental off of a piece of property on Hobart Street, and these people took it.

Q. You haven't had a cent coming into your hands for at least two and a half years, other than your salary?

A. That's right, and I haven't worked half of the time; I have been sick and was operated on.

Q. Do you expect to inherit any other property?

A. No sir. [7]

Q. Is anyone holding anything in trust for you?

A. No sir.

(Testimony of Melanie Douillard Woodd)

Q. Because of this litigation did you transfer anything to anyone to hold for you?

A. No sir, and the note I transferred, or the deed, to Dr. Hovey years ago. That is a note that is in litigation now.

Q. Dr. Hovey claims you owe him some money?

A. Yes sir; he has a \$4000 judgment against me. That is between him and the lawyers. I don't know what that is.

Q. Did you ever give a \$4,000 note to him, or give him \$4,000?

A. No, I never had anything to do with Dr. Hovey. He got that from the attorneys.

Q. Did you owe the attorneys \$4,000?

A. Yes sir.

Q. And they assigned to Dr. Hovey?

A. Yes, I guess that is it.

Q. In other words, you had litigation with these attorneys? A. Yes sir.

Q. \$2500 to one and \$1500 to the other?

A. Yes sir.

Q. And they assigned to Dr. Hovey?

A. Yes sir.

By Mr. Goggin:

Q. I notice you paid your attorney \$150 for fees and costs, where did you get that money? [8]

A. A friend loaned me the money.

By the Referee:

Q. Who was the friend? A. Mrs. Gradey.

Q. And you owe her \$150? A. I owe her \$90.

Q. You paid back \$60?

A. No, I didn't get \$60 off of her; I got that from my own salary.

(Testimony of Melanie Douillard Woodd)

Q. You haven't had any other funds except your salary? A. No sir.

Mr. Austin: Your Honor, I represent the Douillards, Evans and Puissegurs. May I ask some questions?

The Referee: All right.

By Mr. Austin:

Q. Mrs. Woodd, you received at the distribution of your mother's estate, in 1939, a substantial amount of money from your mother?

A. I received \$10,000 less \$500 for the income tax, or whatever it was, and the other was in that property, and you know that.

Q. The suit against you, as the result of this \$7500 judgment, was filed some time in 1939, was it not?

A. Yes sir.

Q. And you then employed Mr. Knapp?

A. And Mr. Heath. [9]

Q. To defend you in that action?

A. That's right.

Q. At the time you had something in the bank?

A. \$59, and you took it.

Q. On the 10th day of April, 1939 you had in the Security-First National Bank \$6,805.55?

A. That's right. I sold the property on Vermont. That is where I got that money.

Q. And on June 20, 1939 you had in the Western Avenue Branch of the Security-First National Bank \$5100, did you not?

A. That money was transferred, \$6500 or what was left, and it was transferred to this other one.

Q. How did you happen to take that money out of the Fifth and Spring Street Branch, on April 10th?

A. Well, you folks had nothing to do with that.

(Testimony of Melanie Douillard Woodd)

By the Referee:

Q. Well, the question is, you had it in the bank—how did you happen to take it out?

A. Because I wanted it closer to my home in Hollywood.

By Mr. Austin:

Q. What did you do with that money?

A. I bought a place on Virginia Avenue, and I cut a house in two, and I built another little house, in the back yard. [10]

Q. What happened to the property?

A. It was taken by Dr. Hovey; sold at sheriff's sale.

Q. How long ago? A. In March, 1943.

Q. In other words, did you put all of your money into it or did you have any money after you got through developing the property?

A. I might have had \$2,000 and I bought a place in Glendale.

Q. So you lost the first place; what happened to the Glendale property?

A. I lost that too, in the same litigation.

Q. With whom? A. Dr. Hovey.

Q. You only started out owing \$4000 didn't you?

A. Yes sir.

Q. When he took these properties how much credit did you get? A. I didn't get any.

Q. It was foreclosed by mortgage or sheriff's sale?

A. Sheriff's sale.

Mr. Austin: To follow the line of questioning suggested by the Court, but not abandoning the other—The suit brought by Dr. Hovey was for services you owed for to Mr. Heath and Mr. Knapp in this suit your brothers brought against you? [11]

(Testimony of Melanie Douillard Woodd)

A. I don't know anything about Dr. Hovey; all I know is I owed the two attorneys. I think Mr. Knapp could tell you.

By the Referee:

Q. When they did take this property away from you on this judgment, did you have any further dealings with them of a financial nature? A. No.

Q. Did they lend you any money?

A. No. I paid for the depositions.

Q. Dr. Hovey took the property and kept it?

A. Yes sir.

Q. You didn't have any agreement with him to get it back? A. No sir.

Q. Or collect the rents or anything?

A. Yes, I was collecting the rents on Virginia Avenue.

Q. Why?

A. Because they allowed me to live there. I had no place to go.

Q. Now you had these judgments against you?

A. Yes sir.

Q. Then in 1943 there was a suit filed, for \$4,000, against you by Dr. Hovey on the attorney's notes?

A. Yes sir.

Q. And you didn't contest that suit, did you? [12]

A. Yes sir.

Q. Did you fight it and say they should not have the judgment?

A. Well, I went to court. The records will show everything.

Q. So then they went ahead, these attorneys of yours and Dr. Hovey, went ahead and sold the property out from under you at sheriff's sale? A. That's right.

(Testimony of Melanie Douillard Woodd)

Q. And made a deal with you to continue to live there and collect the rents?

A. Yes, the Virginia Avenue property. I asked them if they would let me live there.

Q. And they said you could?

A. Yes, for awhile.

Q. And you have lived there ever since?

A. From then to now.

Q. How much rents are collected each year?

A. \$45 a month; \$20 off of the little house and \$25 off of the duplex.

Q. Where do you live?

A. I live in one-half of the duplex.

Q. And you collect the \$45 each month and send it in to them? A. Yes sir.

Q. And for that you get the \$25 a month place to live? [13]

A. I pay the \$45 to Dr. Hovey, and he, in turn, pays the mortgage on the place. He has the mortgage.

Q. And you take it in to him? A. Yes sir, I do.

Q. When did you make this deal with him or your attorneys, to live in the property without paying any rent and for the care of the property and collection of the rents?

A. Way back in—well, from the time they sold me out; that was in 1943, I think.

Q. Did they ask you to stay there?

A. No, I did. They didn't ask me to stay there.

Q. What is the property worth now, in your opinion?

A. I don't know; it is awfully run down.

Q. \$10,000? A. Oh, no.

(Testimony of Melanie Douillard Woodd)

Q. \$8,000?

A. No, maybe \$5,000; it is in bad condition.

Q. What is owing on the mortgage?

A. I don't know now.

Q. What was owing on the mortgage when you lost the property? A. Near \$2,000.

Q. Is there anything owing now?

A. Yes, I think there is.

Q. What did you give for the property?

A. \$5,000. [14]

Q. How much money did you put into it?

A. I paid \$1,000 down.

Q. No, I mean for improving it.

A. I paid \$1,000 to cut it up and then new plumbing, and the little house cost near \$2,000.

Q. You bought the property for \$5,000?

A. Yes sir.

Q. And you put \$4,000 in it? A. Yes sir.

Q. That would be \$9,000? A. Yes sir.

Q. And this property has gone down to where it is only worth \$5,000? A. Yes sir.

Q. Where is it located?

A. On Virginia and Hobart.

Q. What makes you think it is only worth \$5,000?

A. The grass is all dead and the rain has rained through the houses.

Q. Were you ever able to pay your attorneys anything in cash? A. No.

Q. You had money in the bank to pay them, didn't you?

A. No; after I bought these houses I had no money.

Q. When did they render the services to you?

A. They started in 1939. [15]

(Testimony of Melanie Douillard Woodd)

Q. When did you get your money?

A. I got my money before that.

Q. And it was all spent?

A. Yes sir. No, I got some money in 1939; that was when I sold the place.

Q. Were you getting all this work done on credit?

A. Yes sir.

Q. Weren't you paying anything as you went along?

A. No sir.

Q. Were they handling it on a contingent basis?

A. No sir.

Q. They were handling it for a fixed fee?

A. Yes sir.

Q. When did they tell you what they would charge you; when they started in?

A. No; he said he thought the case would be nothing at all, they thought it would not stand, and when he saw they were losing, they came to me and said they would have to have some money or something, and I offered—

Q. Was that before the notes were signed?

A. What notes?

Q. You gave them two notes.

A. It was just before Thurman Clark gave his decision, but he was going to give it, and they wanted some sort of protection.

Q. What had they done up to that time; prepared your [16] case and tried it for you? A. Yes sir.

Q. And before the Judge gave his decision they said they wanted some protection? A. Yes sir.

Q. And then you gave them the notes?

A. Yes; I wanted to give them a piece of property, but Mr. Knapp wouldn't hear of it.

(Testimony of Melanie Douillard Woodd)

Q. They had \$4,000 in fees that you should pay up to that time? A. Yes sir.

Q. What had they done for you?

A. They had prepared the case and prepared the briefs. I can't tell you, but I can bring you the books. It is too much for me.

The Referee: Any other questions?

By Mr. Austin:

Q. Isn't it a fact that you inherited from your mother the property you are living in now, at Virginia and Hobart? A. No sir.

Q. Who did you buy that from?

A. The Pacific Mortgage Company, Mr. Thirtle.

Q. When did you buy that?

A. In 1939; the latter part of 1938, maybe.

Q. How long have you lived there?

A. Ever since I bought it. [17]

Q. When did you first move into the property?

A. I think 1939.

Q. Where had you lived before that?

A. 1160 North Hobart, right around the corner.

Q. Isn't that on the same corner?

A. No; they touch each other. That is the property my mother left me, and there was a mortgage of \$2400 on that.

Q. How much did you pay for the property you bought from Mr. Thirtle?

A. \$5,000; \$1,000 down and \$40 a month.

Q. When did you make that purchase?

A. In 1939.

Q. Was that before or after the money was distributed to you from your mother's estate?

A. A year and a half after the estate was closed.

(Testimony of Melanie Douillard Woodd)

Q. What did you do with this money you withdrew from the Fifth and Spring Branch of the Security-First National Bank, on April 10th?

A. Is that the \$6500?

Q. Yes.

A. I transferred that to Hollywood. No, I don't know, it seems to me I put something in postal savings.

Q. And didn't you put some of it in the Building and Loan Association? A. Yes.

Q. So the money you took from the Fifth and Spring Branch [18] of the Security National Bank went into postal savings and the Building and Loan Association?

A. Yes sir.

Q. Then on the 20th of June, 1939, you withdrew \$5100 from the Western Avenue Branch of the Security-First National Bank, didn't you?

A. I withdrew this same money, this \$6,000, and that was all I had. I paid \$16,000 for this Vermont property and sold it for \$7,000; I lost \$8,000 on that.

Q. What property? A. The Vermont property.

Q. When did you buy that Vermont property?

A. I bought that from the estate, in 1938.

Q. You got that in the distribution of your mother's estate?

A. No sir. I bought it from the boys. All of the properties were together and our fourth was in that, and the boys got together and chose everything they wanted, and they took everything that was good, and there was this building that was a white elephant, and they got me to buy it and I lost it.

(Testimony of Melanie Douillard Woodd)

Q. Did you have that money in the bank at the time you sold the property?

A. No, at the time I sold that property I didn't have a nickel.

Q. On the 20th of June you had \$5100 in the Western [19] Avenue bank?

A. Now is that the Los Angeles Security Bank or the Hollywood?

Q. That is Los Angeles.

A. That is the rest of the \$6500, or whatever it was.

Q. Then you had that at the time you got \$7500 for the sale of the Vermont property?

A. That is the same money. I transferred that money from the bank. I put it in the Western Housing, or something. I thought I could get more interest on that, and in reading in the newspapers, they were changing their name and I took it out of there.

Q. In any event, you had \$6800 on April 10, in the Security-First National Bank at Fifty and Spring?

A. All right; maybe I did.

Q. Did you put that \$6800 in the Western Avenue Branch of the Security-First National Bank, or in the postal savings?

A. I put \$2,000 in the postal savings. That is all you can put in there. I put the other \$4,000 in the Western—I don't know, maybe a few hundred dollars I used.

Q. So, on June 20, 1939, you had \$5100 in the Western Avenue Branch of the Security-First National Bank?

A. Western and Santa Monica, yes sir.

Q. And at the same time you had \$2,000 in postal savings?

A. No.

(Testimony of Melanie Douillard Woodd)

Q. What had you done with the \$2,000? [20]

A. That was in that \$5100; I put all of the money back together again.

Q. How long did you keep your money in the postal savings?
A. Maybe two months.

Q. How did you transfer this money from the Fifth and Spring Branch of the bank?

A. By check; I just drew it out.

Q. You went to the window and handed them a check and got the money?
A. Yes sir.

Q. And carried it away in cash?

A. That's right.

Q. And that is the money you say you deposited in the Great Western Building and Loan Association?

A. That same money.

Q. How much did you deposit there?

A. About \$4,000.

Q. When did you make that deposit?

A. I don't know now.

Q. Was it the same time you withdrew this money from the Fifth and Spring Street bank?

A. It may have been a few days later.

Q. How much money did you put in that building and loan association?

A. For the third time, Mr. Austin, \$4,000.

Q. How long did you leave it there? [21]

A. Maybe a month or two months.

Q. At the same time you put that \$4,000 in the Building and Loan Association you put \$2,000 in the postal savings?
A. Yes sir.

(Testimony of Melanie Douillard Woodd)

Q. Then when did you make a deposit in the Western Avenue Branch of the Security-First National Bank, of \$5100, which you withdrew on June 20, 1939?

A. That is the same money that I took out of the Western. I don't even know now whether it was \$4,000. You would have to look that up. Anyway out of that six thousand or sixty-five hundred dollars, that same money was juggled around from one place to another. I even carried it on my person for awhile.

Q. So, on April 10th, when you withdrew this money, you deposited part of it in the postal savings and part in the Great Western? A. Yes sir.

Q. And then withdrew it and deposited it in the bank?

A. Yes sir.

Q. Then on June 20th you withdrew \$5100 from the bank? A. Yes sir.

Q. What did you do with that money?

A. I bought the place on Virginia Avenue and built the little house in the back and put in extra plumbing and so forth, and also purchased a place in Glendale.

Q. About the same time that you withdrew this \$5100 [22] from the Western Avenue Branch you sold this Vermont property for \$7500?

A. I sold the property before I put the money in there.

Q. Then you had the \$5100 that was in the Western Avenue Branch on June 20th and the \$7500 you got from the Vermont property at the same time?

A. The \$7500 I got from the Vermont property, it came to less than that, six thousand and something after the commission was taken out and so forth and the escrow fees, and with that money I purchased,—first I

(Testimony of Melanie Douillard Woodd)

put it into the Western Federal, or whatever it was, and then \$2,000 in the postal savings, and I withdrew it from there. I thought I wanted a home in Hollywood so I could have some rent coming in—I cannot hold on to money, and I thought I would have some rents; so I purchased that property on Virginia and Hobart from the Pacific Mutual, through Mr. Thirtle, then I purchased the property from Mr. Kole, in Glendale, and paid down \$2000, and fixed that house up—put on a new roof and new plumbing, and a beautiful new porcelain sink that cost \$60.

By the Referee:

Q. What happened to it?

A. That is the property that was sold at sheriff's sale.

Q. How much money had you put in that?

A. About \$2500. [23]

Q. How much did you owe on it?

A. About \$1700.

Q. How much did it cost you?

A. Thirty-four or thirty-five hundred dollars.

Q. They took both of these properties on this Hovey judgment?

A. Yes sir.

The Referee: The records of these attorneys will be produced here as to payments you have made to them.

Q. I want to get this clear—You have never paid them any cash fees or retainer?

A. No; I paid for the depositions.

Q. And the costs? A. Yes sir, and the briefs.

Q. But they never asked you for any fees and you never paid them any fees until in this trial, when you say it appeared that Judge Clark was going to decided against you, then they wanted to know how they were going to come out?

A. Yes sir.

(Testimony of Melanie Douillard Woodd)

Q. And that lead to the execution of the notes?

A. Yes sir.

Q. How soon after that did they sue you, or cause you to be sued? A. I don't know—

Q. They sent them to you right away?

A. Yes, because that paid off everyone. [24]

Q. Paid the Douillards? A. Yes sir.

Q. So it was a first lien?

A. Yes. They have been fighting us back and forth and have lost the decision three times. Just last week, or two weeks ago, they lost in the appellate court, and Mr. Heath passed away a week ago and has not been paid.

By Mr. Austin:

Q. Now you have been living in that same apartment or house since 1939? A. Yes sir.

Q. When did you make arrangements with Dr. Hovey that you were to collect the rents and have the use of that property for the collection of the rents on the property?

A. I don't know that I made any arrangement with him. I talked with Mr. Heath and they talked it over and said they couldn't put me out.

By the Referee:

Q. Why couldn't they?

A. Where could I go? Yes, they could have put me out, sure they could have.

Q. When did you talk to them about that?

A. After the sheriff's sale.

Q. When did you talk to them about staying there and collecting the rents for the use of the place? [25]

A. Ever since then.

(Testimony of Melanie Douillard Woodd)

Q. What about the Glendale property; what kind of a deal did you have on that? A. Nothing on that.

By Mr. Austin:

Q. But you did collect the rent on that for quite a while after it was sold to the Hovey judgment?

A. When it was in the Douillard's name I sold it to my nephew; I didn't know you couldn't sell a piece of property when there was a judgment on it, but I did.

Q. How much did your nephew give you for it?

A. About \$200.

Q. Was it by check or cash? A. Cash.

Q. Where did you put it? A. I used it.

Q. How long ago was that?

A. In 1941, I think.

Q. When was the execution sale against you?

A. In 1943, I think.

Q. Then you sold it to him when there was a judgment on it? A. Yes sir.

Q. What judgment was on it?

A. Hovey's judgment.

Q. He gave you \$200? [26] A. About that.

Q. Then what happened next?

A. I guess Mr. Heath must have had that set aside; I don't know.

Q. Did they take it up with you? Did they talk to you about it?

A. I don't remember. Mr. Knapp, I think, can tell you.

By Mr. Austin:

Q. Your nephew then transferred it back to you, didn't he? A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. What was the occasion for that?

A. The mortgage came due and he went to war.

Q. What did you give him for it when he transferred it back to you?

A. I gave him a couple of hundred dollars back when he transferred it back to me.

Q. Where did you have that \$200 at that time, in a bank account? A. No.

Q. Did you have a bank account at that time?

A. No.

Q. Were you working at that time?

A. No; friends loaned it to me—no, I sold a stove and the dining room table and a couch. That was the only [27] way I had.

Q. Now when was the last time you transferred any money to Dr. Hovey for rents on the house?

A. Last week; Saturday morning.

Q. Do you pay the taxes on the property or does he?

A. He does.

Q. Who did you deliver that money to?

A. Dr. Hovey.

Q. How long have you been paying the money to Dr. Hovey in person? A. Since January of this year.

Q. How did you pay it prior to that time?

A. I sent it in to Mrs. Knapp.

Mr. Austin: If the Court please, we are unwilling to have this examination terminate until we have some examination of Dr. Hovey.

The Referee: Well, we can have a continuance.

Mr. Austin: Mr. Heath and Mr. Knapp were her attorneys in the Douillard case, and instead of giving

(Testimony of Melanie Douillard Woodd)

them a note, they sued her and attached her property for everything they said was due her prior to the rendition—

The Referee: Then it was not a note?

Mr. Austin: No, there was no note; they sued her for \$7000.

The Referee: For services in this action?

Mr. Austin: I don't know, they didn't say what it was [28] for.

The Referee: We can put this over. How about Wednesday afternoon?

Mr. Bowden: That is agreeable.

Mr. Austin: That's all right.

The Referee: I suggest counsel for claimant confer with the Trustee and determine what other records or documents you have to have in here, or want to have produced and I can have subpoenas issued for them. I suggest, Mrs. Woodd, that you make up, for your own convenience, a memorandum, tracing these bank accounts, money, investments, property and sales and so forth, because I can anticipate how difficult it is to remember those dates and amounts, and you can have the use of your memorandum, if we go over this again. Apparently what the Trustee wants to know is how much money came into your possession and what happened to it, and approximately when, and what properties you have had since your mother died; so you get them, and what you paid for them and how you disposed of them or lost them. You can prepare all of that between now and then, and have recourse to whatever records you want.

Mr. Austin: I would like to have the witness instructed to bring all of the papers and records and checks.

Witness: I don't have any.

(Testimony of Melanie Douillard Woodd)

Mr. Crandell: I think counsel knows that. We have gone into that thoroughly, and counsel has been in this case [29] all of the time, and all of the others, and he knows it better than she does.

The Referee: The order to you is to bring in any and all records, documents, bank statements, checks, deeds, mortgages, rental receipts, or anything of any kind or character that pertains to your business transactions. That will be on September 19, at two o'clock.

(Court adjourned.) [30]

Melanie Douillard Woodd

October 16, 1945

First Meeting of Creditors
Cont'd from 10/3/45

The Referee: Melanie Douillard Woodd.

Mr. Bowden: Ready. Dr. Hovey?

DR. M. L. HOVEY,

having been first duly sworn, on oath testified as follows:

Direct Examination

By Mr. Bowden:

Q. Doctor, I believe at the last hearing you testified regarding two pieces of property that formerly belonged to the bankrupt, on which you secured an execution?

A. Yes sir.

Q. Now was the street address of that Hobart property 1152 and 1156 North Hobart?

A. I don't remember the street number, but I believe that is correct.

(Testimony of Dr. M. L. Hovey)

Q. According to my records it is also 5252 Virginia Avenue? A. That is around the corner.

Q. In other words, that is a corner property?

A. Yes sir.

Q. How many buildings are there on it?

A. There are two, I believe. The number 1152 is on [31] one house; I don't remember if that is the the number; there are two little houses there.

Q. Well, 1152, was that for one house?

A. Yes sir.

Q. And 1156 another? A. I think so.

Q. And 5252 Virginia Avenue is another house?

A. No, that is the same house as 1156.

Q. You mean it has two street numbers?

A. Yes.

Q. Are there two entrances to the house?

A. Yes.

Q. Is it a double or a duplex?

A. No, it is just a large house on the corner with two entrances.

Q. Have you brought any records regarding these transactions with you?

A. No, other than notes that I got by 'phone, from the attorney.

Q. What is the present encumbrance against the Hobart property?

A. I don't know what that is. That is the Virginia Avenue single house. I believe the loan against that is about \$2800.

Q. You mean that is the balance or the original amount?

A. There is something paid since then, I don't know [32] just how much.

(Testimony of Dr. M. L. Hovey)

Q. What is your best estimate?

A. There is very little paid on that; I think that is within \$30 of it.

Q. Is there any other encumbrance against the place?

A. Not that I know of.

Q. What is the amount of your judgment?

A. It was sold at sheriff's sale for \$1775.

Q. What was the date of the sale?

A. April, 1943.

Q. Has anything been paid on that?

A. Not that I know of.

Q. Well, you would know if anyone did, wouldn't you?

A. No, that is all in the hands of the attorney, and since the case is not settled I have no direct knowledge of it.

Q. Which attorney is handling it?

A. Since Mr. Heath's death, I think Mr. Knapp.

Q. And he has the full records of it?

A. Yes sir.

Q. I think you testified that Mr. Knapp's wife, who is his secretary, has taken care of it?

A. She did most of the work.

Q. Who is collecting the rent at the present time?

A. The rent comes to me.

Q. What is the rent on the Hobart property? [33]

A. I said the other day it was more than it is; it is \$30 from the one tenant, Theris.

Q. Where does the tenant live?

A. They live on—

Q. Virginia Road? A. The Hobart side.

Q. Who lives in the other side, on Virginia Road?

A. Mrs. Woodd.

(Testimony of Dr. M. L. Hovey)

Q. Now I think you said there were two buildings on the Hobart side; does Theris occupy both of them?

A. No.

Q. Who occupies the other?

A. I don't remember who is in there. I believe that pays \$20 a month.

Q. So outside of Mrs. Woodd's rent you get \$50 a month, is that correct?

A. That is \$30 on that house; I don't know anything about the other one. It is still in the hands of the lawyer's office.

Q. I thought you just testified it was \$20 a month rent?

A. That is what I understand, but I don't know. I don't know the tenant's name.

Q. What does Mrs. Woodd pay you?

A. She doesn't pay me. She pays me the equivalent of \$25; her rent is supposed to be \$25, for taking care of the place. [34]

Q. Is it an apartment or a house she lives in?

A. A house.

Q. How many rooms? A. Six or seven.

Q. And she only pays \$25 a month for six or seven rooms?

A. She doesn't occupy the whole house; it is divided between two tenants—Mrs. Woodd and Mrs. Theris—Mrs. Theris has two or three rooms and Mrs. Woodd has the rest of the house.

Q. Who is Mrs. Theris? A. She is the tenant.

Q. Yes, but is she a relative of yours or Mrs. Woodd's? A. No, neither one.

(Testimony of Dr. M. L. Hovey)

Q. How long has she been living there?

A. I don't know. I saw her a year or a year and a half ago; I don't know how long she has been there.

Q. And what is your estimate of the value of this property and all of the buildings?

A. Well, I don't know the actual value.

Q. I didn't ask you for the actual value; just give me your opinion of what you think it is worth on the present day market.

A. Well—in the condition of the houses, I should judge about \$5,000 or \$5,200.

Q. When is the last time you received an estimate from [35] anyone as to the value of the place?

A. I never did.

Q. Did you ever talk over the value with Mr. Knapp or Mr. Heath? A. No.

Q. Did you ever have a conversation with them regarding the sale or leasing of it? A. No.

Q. Did you ever have a conversation with Mrs. Woodd regarding the sale or leasing of it? A. No.

Q. What is your understanding of what Mrs. Woodd is to get out of this when it is sold, if anything?

A. I don't believe she has anything to get out of it.

Q. Well, do you know?

A. I don't believe she has any equity in it at all.

Q. Doctor, I think the other day you testified you had \$1,000 coming from Mr. Heath or Mr. Knapp, or both of them, and you were going to get the money out of this property, is that correct?

A. I expect to get it when this suit is settled.

Q. You testified the other day you were going to get it out of this property. A. That is right; I want it.

(Testimony of Dr. M. L. Hovey)

Q. What did you mean by "when it is settled"?

A. Well, there has been numerous suits between the [36] family, and the assignment was to me for legal fees, and when the final decision is made, then I will get it.

Q. You are not a lawyer are you? A. No.

Q. What did you mean by "legal fees"?

A. Mr. Heath's and Mr. Knapp's fees.

Q. Not yours? A. Of course not.

Q. Do you know what their legal fee is?

A. No.

Q. Are you in the habit of going into things like this and having a bill for \$1000? A. Yes.

Q. And you have no records?

A. No; Mr. Heath has the records.

Q. How long have you been acting as assignee for Mr. Heath?

A. About two or three years. I have been assignee in this case.

Q. Not in this case, but I mean in any case; how long have you been acting for him?

A. Fifteen or twenty years.

Q. And you have had other cases like this?

A. Not like this, no.

Q. Now Mr. Heath is deceased; who do you expect to make your accounting to when this property is sold or dis- [37] posed of?

A. To Mr. Knapp and Mr. Heath's estate.

Q. Is there an executor or executrix of Mr. Heath's estate? A. I don't know.

Q. Do you know whether there is any probate proceeding pending? A. No.

(Testimony of Dr. M. L. Hovey)

Q. Have you had any written agreement with Mr. Heath or Mr. Knapp regarding the handling of this property? A. No.

Q. No writing between you at all? A. No.

Q. What understanding do you have with Mr. Knapp at the present time?

A. I have nothing except a verbal opinion, that when the case is settled, that whatever is just and fair I will receive.

Q. Doctor, you know you have all of Mrs. Woodd's property in your name at the present time?

A. Yes sir.

Q. Didn't you consider that quite a responsibility?

A. Yes sir.

Q. And you have no written understanding with anyone regarding the handling of it?

A. That's right. [38]

Q. Did you have a written assignment of the claim before you started the suit?

A. I don't know; you will have to ask the attorney.

Q. I am asking you, if you don't know, just answer "no."
A. No, I don't know.

Q. What about the Glendale property, what is the rent on that? A. \$35 a month.

Q. What is the encumbrance against that property?

A. About \$750.

Q. And it is a five room house?

A. I was told that; I have never been in it.

Q. What do you think the value of that property is on the present market? A. About \$3250.

(Testimony of Dr. M. L. Hovey)

Q. Do you know where you can buy a place like that for \$3250?

A. That is all I have been offered for that place. That is all I know.

Q. When were you offered that?

A. About three months ago.

Q. By whom?

A. The bank that carries the loan on it.

Q. How did you happen to negotiate that business with the bank? Just tell us all about it and how it came about.

A. The loan had to be renewed and they made an appraisal [39] of the property.

Q. For the purpose of making a new loan?

A. That's right.

Q. Then what happened?

A. Well, they made that offer to take the property.

Q. Well, Doctor, that is not the way things happen. Just tell us the circumstances—how did the bank happen to make you an offer to buy the property?

A. They said the property had seriously depreciated in value, because of the poor condition of the building and the foundation.

Q. The property was not under foreclosure, was it?

A. No.

Q. Well, the bank was not interested in anything except collecting the monthly payments, was it?

A. I don't know.

Q. Who did you talk to about that?

A. Mr. Dick.

Q. When was that?

A. At the time of the making of the loan.

(Testimony of Dr. M. L. Hovey)

Q. Well, when, approximately?

A. Two or three months ago.

Q. What was the amount due on the loan at that time?

A. \$725, I believe.

Q. How was it being paid; so much a month?

A. Yes sir. [40]

Q. How much? A. \$20 a month.

Q. And the house was rented for how much at that time? A. \$35 a month.

Q. What were the taxes on the property?

A. I don't know for sure about the taxes on that property. I think \$38 or \$39, somewhere around there.

Q. A year, or what?

A. I don't know if that is a half a year or not; that is the last taxes.

Q. The trust deed was not in default, was it, at that time? A. No.

Q. But it was all due and payable?

A. That's right.

Q. Then the bank made an appraisal for the purpose of refinancing it? A. Yes sir.

Q. Which they did? A. That's right.

Q. How did it happen they offered to buy the property? A. I have no idea.

Q. They didn't just say, "We will buy the property and give you \$3200 for it", there must have been some conversation.

A. They just said, "Why don't you sell it?"

Q. What did you say?]41[

A. I said, "It seems a good idea".

(Testimony of Dr. M. L. Hovey)

Q. What else did you say?

A. He just made me that offer and I told him I would talk it over with Mr. Heath.

Q. Did you talk to Mr. Heath?

A. I asked him if it could be sold and he said it could not be until the legal affairs were straightened out.

Q. What legal affairs did he refer to?

A. I don't know.

Q. You have no idea? A. No.

Q. Didn't he refer to the accounting with Mrs. Woodd?

A. He was referring to the suit by her relatives against the property. That is my opinion.

Q. And he said nothing could be disposed of?

A. That is the way I understand it.

Q. Did he say nothing could be done because she didn't want to have it in her name, or didn't want to have the money in here name? A. No.

Q. Nothing of that kind at all? A. No.

Q. Did you ever have a conversation with Mr. Heath or Mr. Knapp or Mrs. Woodd regarding the keeping of the property out of Mrs. Woodd's name until the litigation was disposed of?]42[

A. No, I never have.

Q. What was your understanding about this friendly suit?

A. I was told it was a friendly suit, and what a friendly suit is, I don't know.

Q. You are an educated, intelligent man, what would you think?

A. I thought it was to settle the legal fees due the attorneys.

(Testimony of Dr. M. L. Hovey)

Q. Attorney fees due Mr. Knapp and Mr. Heath?

A. Yes sir.

Q. Do you know how much they were?

A. I believe they thought they were entitled to about \$7000.

Q. Now you had a conversation with Mr. Heath before this assignment was made, didn't you?

A. I don't recall. He assigns things to me like that. He probably called me up and said he was assigning it.

Q. Tell us what he said.

A. I don't recall exactly.

Q. Well, as near as you can.

A. He said he was assigning the suit in settlement of legal fees, and would sue in my name.

Q. Whose suit was it, did he tell you that?

Mr. Crandell: I will make an objection to this line of questioning. The records are the best evidence, and they are full and complete. [43]

The Referee: The records might not have any record of this conversation. Objection overruled. All we want is the truth.

Witness: Here is a copy of the decision.

The Referee: Show it to counsel.

Mr. Bowden: I am not interested in seeing the decision.

By The Referee:

Q. Now what did this man say when he called you and told you he was going to assign this claim to you? That is what we want to know.

A. He said he would assign the claim to me and he was going to sue for legal fees, and for me to come down and sign the papers.

(Testimony of Dr. M. L. Hovey)

Q. Are you a regular physician?

A. I am a chiropractor.

Q. Do you follow your profession regularly?

A. Yes sir.

Q. And did you take time out from your profession to be the assignee for this man Heath for twenty years?

A. Yes sir.

Q. What were you to get out of this particular transaction, this Woodd transaction?

A. We had no specific agreement.

Q. What would you normally expect to get out of it?

A. I would get paid according to the time involved in it. [44]

Q. Would you change your regular rate as a chiropractor?

A. My time in court. I would charge more than I would on my profession or in the office.

Q. I don't know much about this, but I understand a judgment was obtained against this bankrupt for \$4,000 and this property was sold immediately under execution; did you bid it in?

A. The attorneys bid for me at the sheriff's sale.

Q. And you say you bought this property for \$1700?

A. \$1775 I believe was paid in on the Virginia property.

Q. How much on the Glendale? A. \$1250.

The Referee: All right. Go ahead Mr. Bowden.

By Mr. Bowden:

Q. Now you knew the fees that were involved in this suit were fees that Mr. Knapp and Mr. Heath claimed to be owing by Mrs. Woodd? A. That's right.

(Testimony of Dr. M. L. Hovey)

Q. And you knew Mr. Knapp and Mr. Heath represented Mrs. Woodd as her attorneys?

A. They had represented her.

Q. Well, they were representing her at the time the assignment was made, were they not?

A. I believe another attorney represented Mr. Woodd.

Q. That is in this particular action we are talking about, but you knew Mr. Heath and Mr. Knapp represented Mrs. [45] Woodd in an appeal that was pending in another case?

A. Well, I don't know.

Q. Now who represented you in that suit you filed against Mrs. Woodd?

A. Mr. Heath.

Q. Are you sure?

A. No, no sir.

Q. And who represented Mrs. Woodd?

A. I don't know.

Q. Was she represented?

A. I don't know.

Q. You were in court weren't you?

A. I believe Mr. Martindale, or some such name.

Q. You were in court when the case was heard?

A. It is very confusing and I don't recall.

Q. Doctor, don't you remember when you go to court?

A. Yes, once in awhile.

Q. Are you always confused when you go to court?

A. Nearly always.

Q. Now on this friendly suit, do you remember ever going to court on it and being present personally in court?

A. Yes sir.

Q. And that was the time when they had a trial?

A. Yes; I was in court a few minutes and what actually took place, they asked me a few questions and I left and went back to my office, and what was taking place exactly, [46] I don't recall.

(Testimony of Dr. M. L. Hovey)

Q. How much had you sued for in the beginning?

A. The attorneys' fee; I believe they were asking about \$7000.

Q. And what did you obtain judgment for, what amount?

A. I don't know what that was; they bought the property in.

Q. No, before they bought the property in, how much were you awarded in that case against Mrs. Woodd?

Mr. Crandell: You have the records.

By the Referee:

Q. Do you have the records? A. I don't know.

Mr. Crandall: I can tell him; it was \$4000.

The Referee: Let this witness tell it. Here is a man who is an assignee and apparently he doesn't know anything about it. He should quit being an assignee if he doesn't know anything about —

Mr. Crandell: Well the court records are the best evidence.

The Referee: That is true, but we don't go on technicalities in this court; we go after the direct truth in the simplest way. You have a lot of technicalities that might bind it all up, but I don't have that over here.

Mr. Crandell: It seems to me the simplest and most correct way would be to follow the records of the courts. [47]

The Referee: That might be the technical way but this man should know, he is an intelligent man. I assume you have to have some education to be a chiropractor, don't you?

Witness: I think so, but I have very little legal education.

(Testimony of Dr. M. L. Hovey)

By Mr. Bowden:

Q. Is it your recollection the judgment was \$4000?

A. I don't know. He says it was, and probably he would be more apt to know.

Q. Do you recall that when you were in court some letters were introduced by the attorney representing Mrs. Woodd wherein she agreed to reduce the claim from \$7000 to \$4000?

A. I don't recall that.

Q. Did you testify in the action?

A. I believe I was on the stand, but I don't remember just what was said in the record.

Q. All right. Tell us how much you claim for your services in connection with this assigned claim of Mr. Heath's and Mr. Knapp's?

A. A set fee for my services has never been made.

Q. Well, you have some idea of what you have coming to you up to this point, don't you?

A. I believe I should have at least \$1200 out of it.

Q. \$1200 out of \$4000; how do you arrive at that [48] figure?

A. From the time involved and —

Q. All right. You were only in court once for a few minutes, weren't you?

A. I don't recall but being in court once.

Q. And Mrs. Woodd is still collecting all of the rents from the Hobart property, is she not?

A. I am collecting the rents from there.

Q. Doesn't she collect them and bring them over to you?

A. That's right.

Q. And she gets her apartment for taking care of that?

A. That's right.

(Testimony of Dr. M. L. Hovey)

Q. And the rent from the Glendale property is sent to Mr. Knapp's office, is it not?

A. No, it is sent to me.

Q. Now tell us how you fix your figure of \$1200; tell us what work you have done.

A. I was assigned the responsibility of taking care of the property and seeing the rents were collected and the place kept rented. Most of that work was done by Mr. Heath in his office before his death and when he became ill he suggested I take the responsibility myself.

Q. How long ago was that?

A. About two months ago.

By the Referee:

Q. What was Mr. Heath's name? [49]

A. Fred W.

By Mr. Bowden:

Q. This is Mr. Knapp's ex-law partner. And that is all of the responsibility you have taken, in the last two months?

A. In the last two months. That being assigned in my name I felt was a responsibility, and when I had to go to the bank to renew the loan in my name; I have been up there a good many times on very short notice, and had to cancel my appointments in the office.

Q. Have you paid the taxes?

A. I haven't yet; Mr. Heath, I think, has paid that.

Q. Are the same tenants living in the Hobart Street property now that were there before the property was bid in in your name?

A. I don't know.

Q. You don't know of any change?

A. No.

(Testimony of Dr. M. L. Hovey)

Q. How long has it been since you have been around there?

A. I was there a few days ago and I was there nearly a year ago.

Q. What did you go there for a few days ago?

A. Because the Referee suggested I should go and see it.

Q. He suggested you get all of your data together, didn't he?

A. That is what I thought he meant. [50]

Q. Who did you see when you went there a few days ago?

A. No one but Mrs. Theris.

Q. Did you see Mrs. Woodd? A. No.

Q. How long has it been since you have seen Mrs. Woodd?

A. I see her every few weeks, and occasionally a day or two apart.

Q. How far is the Hobart property from your office?

A. About two miles.

Q. Does she personally come over with the rent or does she mail it to you?

A. She personally comes over, or takes it to the bank.

Q. Which bank?

A. The Security-First National.

Q. What branch? A. Sixth and Spring.

Q. What account does she deposit it in, do you know?

A. She makes a payment on the loan in my name there.

Q. She doesn't deposit the money?

A. No; I take the money and write the checks.

Q. What do you know about this Yarborough note?

A. I don't know anything about that note.

(Testimony of Dr. M. L. Hovey)

Q. Aren't you the assignee of that note?

A. I believe so.

Q. Haven't you collected seven or eight hundred dollars on it? [51]

A. That money has all been paid directly to the law office.

Q. Mr. Knapp's office? A. Yes sir.

Q. What was that claim from?

A. I don't know.

Q. You don't know anything about it? A. No.

Q. When was it assigned to you?

A. I don't know that.

Q. How much did you charge for your services in connection with that?

A. I don't know; that is not settled either.

Q. By the way, have you ever charged Mr. Heath or Mr. Knapp anything for your services when you have acted for them? Answer that "yes" or "no", it is a simple question.

(Witness laughs)

A. Well, the charges have never been fixed because the case has never been settled.

By the Referee:

Q. He wants to know if you have ever collected anything. A. Yes sir.

By Mr. Bowden:

Q. On what case?

A. I was given an advance of \$100 on —

Q. Now we are begging the question. I asked you if [52] you had ever charged anything for your services in connection with any assignment. I am not asking

(Testimony of Dr. M. L. Hovey)

about any advances or what anyone has ever said to you. You know what a charge is, don't you?

A. Yes sir.

Q. That is what I am asking.

A. No, I never have.

Q. In any case?

A. No. That means I have never mailed a bill or set a price.

By the Referee:

Q. Well, you don't do that with your chiropractic patients, do you?

A. Unfortunately, sometimes I do.

Q. But you send them a bill, don't you?

A. Yes sir.

Mr. Bowden: Mr. Austin would like to ask a few questions.

The Referee: Whom does Mr. Austin represent?

Mr. Austin: I represent some of the creditors.

The Referee: All right.

By Mr. Austin:

Q. Isn't it a fact that you have had in your possession the proceeds from the collection of the Yarborough note?

Mr. Crandell: I will object to that; there is nothing here to show a Yarborough note.

The Referee: Do you represent the bankrupt? [53]

Mr. Crandell: Yes sir.

The Referee: Well, if you represent the bankrupt you have no right to object to anything and all objections made by you are now all overruled. I will tell you why; because when the bankrupt comes here he and his attorney

(Testimony of Dr. M. L. Hovey)

submit themselves and all of their affairs to the Referee and the Trustee. Now it is odd that you, representing the bankrupt, want to put objections in here, and I don't want any more objections from you.

Mr. Crandell: I understand that and I am sorry, but it's rather hard to see the witness misused—

The Referee: I will take care of that. And as the attorney for the bankrupt you are here to help us and not hinder us.

Mr. Crandell: That is right. That is what I want to do.

By Mr. Austin:

Q. You have collected some money from Mr. Yarborough on a note that belongs to Mrs. Woodd, haven't you?

A. That money has always been paid to the attorney's office, and I don't know how much has been collected or what it amounts to.

Q. Didn't you pay into the court recently \$900 of that money as a bond on appeal in a case involving that note?

A. I don't recall that. I put up \$900 as a bond on an appeal. [54]

Q. Where did that \$900 come from?

A. From a loan on the property.

Q. What property?

A. I believe that is the Virginia Avenue property.

Q. Was that in addition to the loan that was on there at the time you took the property over?

A. That's right.

Q. So that property now has a second loan on it?

A. No, that is a new mortgage.

(Testimony of Dr. M. L. Hovey)

Q. You simply increased that loan?

A. Yes sir.

Q. By \$900? A. \$1000.

Q. And used \$900 of that as a bond to stay execution in the appeal in the case of Puissegur vs. Yarborough?

A. I believe that is right.

Q. What interest did you have in the Yarborough note? A. The note was assigned to me.

Q. By whom and when?

A. I don't know; Mr. Heath and his office.

Q. You didn't have anything to do with the Yarborough note and its collection?

A. I recall talking to Mrs. Yarborough a year or two ago about the payment of the note but I told them then all of that would have to be done through Mr. Heath's office. [55]

Q. Now the note that you are talking about is payable to Melanie Douillard Woodd, isn't it?

A. I don't know.

Q. And the suit was by Mr. Puissegur against Mrs. Yarborough on a note made payable to Mrs. Woodd, isn't that the situation? A. I don't know.

Q. How did you happen to make the bond on that appeal, Doctor?

A. The property bond, I believe was held insufficient by the Judge.

Q. You had offered yourself as surety on that bond, had you not? A. Yes.

Q. How did you happen to become bondsman in that case? A. I don't know.

Q. Who suggested that you should sign that bond?

A. Mrs. Knapp.

(Testimony of Dr. M. L. Hovey)

Q. Did you have any talk with Mr. Knapp or Mr. Heath about it?

A. Mr. Heath said he thought it was unnecessary, that the property bond should have been sufficient.

Q. What did that property bond consist of?

A. I don't know; Mrs. Knapp's property.

Q. Didn't it consist of your property too?

A. No. [56]

Q. Didn't you sign that bond too?

A. I don't recall signing it.

Q. Do you recall being called in to court and examined as to your qualification? You recall that, don't you?

A. Yes sir.

Q. How did you happen to make a bond in the case in which Mr. Puissegur was suing Mrs. Yarborough?

A. I did that at the suggestion of my attorney.

Q. Was that because the note Mrs. Woodd had had was then your property?

A. I understood the note was then my property.

Q. But you never collected any money on it?

A. Whatever money has been paid is still in the hands of the attorney.

Q. You don't know how much that is?

A. No, I don't.

By the Referee:

Q. What attorney?

A. Mr. Knapp and Mr. Heath.

Q. Mr. Heath is dead; he cannot hold any money.

A. At that time Mr. Heath was alive.

Q. Then it is now in the hands of either Mr. Knapp or Mr. Heath? A. That's right.

Mr. Austin: That is all of the questions I have.

(Testimony of Dr. M. L. Hovey)

The Referee: All right. Stand aside. Next witness. [57]

Mr. Bowden: Mrs. Woodd, will you take the stand? And I would like to have the Doctor remain a few minutes.

The Referee: Yes.

MELANIE DOUILLARD WOODD

having been first duly sworn, on oath testified as follows:

Direct Examination.

By Mr. Bowden:

Q. Mrs. Woodd, where do you live?

A. At 5255 Virginia Avenue.

Q. How long have you lived there?

A. I have lived there since 1939.

Q. And you formerly owned that property?

A. Yes sir.

Q. How long have you known Dr. Hovey?

A. Six or seven years.

Q. Do you have any present transactions with him?

A. I did.

Q. Do you have any now?

A. No, I haven't had for about a year, I think.

Q. What was the last transaction?

A. Professional service?

Q. No, when did you have the last transaction of any kind with him?

A. Well, I guess last month; I brought the rent down to him. [58]

Q. He now owns all of the property you formerly owned, is that correct?

A. Yes, I guess that is right.

(Testimony of Melanie Douillard Woodd)

Q. How did he get it?

A. He bought it through the sheriff's sale.

Q. That was on a judgment in which he sued you?

A. Yes sir.

Q. At the time he sued you your attorneys were who?

A. When he sued me?

Q. Yes.

A. Well, Mr. Heath and Mr. Knapp were my attorneys. Your Honor, this started in a different way. Mr. Heath was my attorney when the Douillards sued me in 1939. This involves quite a thing. Could I tell you a little of the beginning?

The Referee: I think you can just answer the Trustee's question: Who were your attorneys.

A. Mr. Heath and Mr. Knapp.

Q. Now the suit commenced by Mr. Heath's; or rather Dr. Hovey's involved attorney fees, which were supposed to have been earned by Mr. Knapp and Mr. Heath?

A. That's right.

Q. How did he happen to sue you?

A. Well, Dr. Hovey was just a name to me. I owed Mr. Heath \$2500 and at first it was \$7000 and I thought that was too much and we talked it over and they had a friendly [59] suit for fees and I had Mr. Martindale for my attorney, Mr. Heath could not represent me anymore, and they sued me for their fees in Judge Yankwich's court, and I thought \$7000 was too much and I told Mr. Martindale so, and they said \$3500 for Mr. Heath and \$1500 for Mr. Knapp would be enough, and Mr. Martindale thought \$3500 was too much and they scratched that out in the court before the Judge and we agreed that \$2500 was enough. I don't recall whether Dr. Hovey was

(Testimony of Melanie Douillard Woodd)

in the courtroom or not, but I think he was, but the dealings were always with Mr. Heath and through that office.

By the Referee:

Q. Was that in Dr. Hovey's suit?

A. Yes sir, the attorneys sued for Dr. Hovey.

Q. As I understand it, you had a friendly suit for the amount of the fees? A. Yes sir.

Q. And at that time it was agreed or determined or found that you owed Mr. Heath and Mr. Knapp how much money? A. \$7000.

Q. No, that is what they claimed and you said that was too much.

A. Oh, I see; it came to \$4000.

Q. Then as soon as that judgment was entered it was assigned by Mr. Knapp and Mr. Heath to this man, Dr. Hovey? [60]

A. The Hovey judgment—this Douillard suit was in 1939, and the judgment, I think, was put on me for \$7500 in 1939, and Dr. Hovey's suit came in for the attorneys fees I guess before the Douillards.

Q. No, it was after, because it has a higher number, The Douillard suit is number 435718 and the Knapp and Heath judgment was 450821.

A. What does that mean?

Q. It means the Douillards sued you under action number 435718 and Heath and Knapp sued you under number 450821. It must have been at least a year.

A. No; is there such a thing as an execution comes first?

Q. No; they have to get a judgment.

A. All right. The Hovey judgment was twenty or thirty days before the Douillard judgment.

(Testimony of Melanie Douillard Woodd)

Q. I am just reading from the record. You hired an attorney and they have a record here, Superior Court action number 435718, action brought by Austin, Higgins and Clements, attorneys for the Douillards, and later on there is case number 450821, Daniel A. Knapp and Fred W. Heath, attorneys, Judgment in favor of M. L. Hovey. All right. Go ahead. Dr. Hovey bid it in, he told us.

A. Yes, in 1943 then Mr. Heath bid it in for Dr. Hovey. Dr. Hovey was never present; it was always Mr. Heath. [61]

By Mr. Bowden:

Q. Mrs. Woodd, before Dr. Hovey sued you, did you ever receive a bill from Mr. Knapp or Mr. Heath, or both of them, regarding these fees? A. Yes sir.

Q. When? A. Before we had the friendly suit.

Q. What kind of a bill was it?

A. Well, we had an agreement. I wrote—

Q. I know you wrote a letter to Mr. Knapp, saying “I will agree to pay \$2500”. A. Yes sir.

Q. And you wrote another letter saying, “I will agree to pay \$1500 and \$2500, making \$4000”.

A. Yes sir.

Q. We understand that. Now before this time did you ever receive a bill from them for legal services?

A. No, I didn't, because Mr. Heath didn't know how much this bill would come to.

By the Referee:

Q. Well, they sued you for \$7500? Now these men were charging \$7,000 to defend a \$7500 lawsuit?

A. Yes, they have been fighting ever since. Every little move they could do to me to harm me, they did it, my brothers. The whole thing is spite. I took out of the

(Testimony of Melanie Douillard Woodd)

\$10,000 bequest \$4,000 to pay—and I bought a big build- [62] ing of \$7500, and I bought the mortgages—this big building was mortgaged for \$6500. I had \$14,000 worth of mortgages—\$6500 on Vermont, \$3000 on Virginia and \$2000 on Glendale, and \$2400 on Hobart. I had all of those mortgages and then my brother has a son with six little babies and they were on the county and sleeping on the ground. I took a \$2000 home and furnished it and bought the car from the estate and gave it to them. He didn't tell me he hadn't paid for his lot and they were going to take away the whole thing and I went to Mr. Heath and he said, "You had better take a mortgage on that or everything will be gone" and I had to take \$500 out to pay this.

The Referee: Do you want to hear all of this?

Mr. Bowden: No.

Witness: I want to show you that in 1939 I was broke and I couldn't pay Mr. Heath and Mr. Knapp, and out of the kindness of their hearts they took the case.

By Mr. Bowden:

Q. Mrs. Woodd, where do you have your bank account? A. I don't have any.

Q. Where did you have it?

A. I had one in the Security Bank and also the Citizens Bank.

Q. What branch of the Security?

A. The old head office, at Fifth and Spring, and then [63] later I changed over for the sake of my mortgage, into the head office at Sixth and Spring. That was in 1939, and I don't think I have had any money in the bank since then.

(Testimony of Melanie Douillard Woodd)

Q. When did you last talk to Mr. Heath and Mr. Knapp about the attorneys' fees and before you were sued by Dr. Hovey?

A. Oh I can't tell you. Everything is of record.

Q. Let's get an approximation; what year?

A. 1939 or 1940.

Q. It might be the early part of 1939?

A. Well it could be—after the case—when we saw we were losing, Mr. Knapp, especially, said he want to get his fees. I had nothing and it was slipping and he wanted his fees.

Q. You had nothing in 1939?

A. Yes, I had the properties yet but no money.

Q. What did you do with the \$6790 you withdrew from your bank account; pardon me, \$7005.50 which you withdrew from your bank account in April?

A. What?

Q. Here is a certified copy of your bank statement and I direct your attention to the balance there.

A. I sold my property, the big building.

Q. Mrs. Woodd, I want to know what you did with that money.

A. I bought the building for \$16,500 and sold it for [64] \$7500, and lost on the building. This \$7000 must be this money I sold the building for, minus the escrow fees and realtor fees. I don't deny I had that money.

Q. Mrs. Woodd, tell me what you did with that money when you drew it out of the bank account.

A. I cannot be sure whether it was four or five thousand, and I think four, I put in the Western Federal Housing, or something like that, and then I took \$2000 and

(Testimony of Melanie Douillard Woodd)

put it in the postal savings—I took as much as I could, and I think it was \$2000.

Q. What became of the \$5000 you put in the Building and Loan Association?

A. I took that out.

Q. What are you reading from?

A. I have some little notes—the Referee said I could have notes to refresh my memory.

Q. When did you make those notes?

A. Just the other day.

Q. You are unable to testify without them?

A. Yes. I am trying to see what I did with that money. I had the \$7500, and I built a cottage—this is in 1939—I built a little room or shack in the back yard. I think that was about two hundred and some odd dollars, and then the City Commission or someone, made me tear that down and build a house, and I spent \$2000 to build a little house; that is \$1156, and this house and the duplex [65] are all on one lot, and I built the rear house to face one street and cut the other house in two. I spent about \$1000 dividing the big house, and I live there. Now there was \$375 realtor fees and I don't have the escrow fees. There was a lighting assessment that Mother had not paid, and I had to pay that, about \$130; and I fixed the roof and had it all repainted—the tenants moved out on me, they wanted to buy it but I wouldn't sell it for what they offered and they moved out and it stayed vacant for a long time, and then I paid the taxes on all of these mortgaged places and revived them, and then I spent \$1500 for the two apartments and a little cottage, and I furnished them all. Then I bought the Glendale property and I paid approximately \$2000—the place was

(Testimony of Melanie Douillard Woodd)

only \$3300, it is an old place, and I paid taxes on that—eighteen dollars and some odd cents; and I bought a Plymouth car for myself at \$800, and I gave it to my nephew, and when he went overseas—this brother's son, I was afraid he might hurt someone with it so I gave it to him outright.

Q. When did you give him that Plymouth?

A. In 1939; a month after I bought it.

Q. Where is the car now?

A. He tells me he sold it before he went overseas.

Q. He sold it? A. Sure, it was his.

Q. You just made him a gift? [66] A. Yes.

Q. And you owed all of these attorneys' fees at the time? A. Yes sir, I did.

Q. You have now been telling us what you did with the money received from the sale of this one piece of property? A. Yes sir.

Q. And you had that money in the Building and Loan Association and the postal saving in a portion of 1939 and a portion of 1940? A. Yes sir.

Q. When did Dr. Hovey sue you?

A. I don't know.

Mr. Austin: April 11, 1940 is the date of the Hovey suit, I think.

Q. And you closed this account on April 8 and 10, did you? A. Yes, I guess so.

Q. You drew out the \$7000? (No answer)

Q. Why didn't you pay Dr. Knapp and Mr. Heath when you had all of that money in the bank?

A. I wanted to secure myself first and then I would pay them either with a piece of property or something. I didn't mean to cheat those gentlemen.

(Testimony of Melanie Douillard Woodd)

Q. Did you have a conversation with Mr. Knapp and Mr. [67] Heath, or either of them, before this claim was assigned to Dr. Hovey, about your fees?

A. Yes sir, I did.

Mr. Bowden: If the Court please, I don't desire to inquire into any confidential relationship, although there is no objection—

The Referee: All right; just inquire into the fees.

Q. All right. Tell us what conversation there was and when it was, and who was present.

A. It was in Mr. Heath's office.

Q. About what date?

A. I cannot tell you.

Q. Well, remember the suit was filed April 11, 1940, does that refresh your recollection?

A. It might have been a few days after or before.

Q. Well, which? A. I don't know.

Q. Did you ever have a conversation with Mr. Heath or Mr. Knapp, or both of them, regarding the amount of your fee, before it was assigned to Dr. Hovey?

A. Yes sir.

Q. When?

A. Let's see; the case was in 1939, January or February—I think in February, it was right after or while the case was going on—I can't remember the dates. [68]

By the Referee:

Q. When you say "the case" it doesn't mean anything to me; did you mean the Douillard case?

A. Yes sir.

The Referee: All right.

(Testimony of Melanie Douillard Woodd)

Q. What was the conversation regarding the attorneys fees?

A. Mr. Knapp spoke up and he said he wanted his fees.

Q. How much did he say he wanted?

A. How much did he say he wanted?

Q. Yes. A. \$7000 for the two of them.

Q. Mr. Knapp said that? A. Sure.

Q. Was Mr. Heath there? A. Yes.

Q. What did he say?

A. I thought it was too much.

Q. Tell us the rest of the conversation; what did they say?

A. He said we would have to go to court and have it decided by a judge.

Q. And they were representing you at that time, weren't they? A. No.

Q. Wasn't there an appeal pending from the Douillard [69] judgment?

A. I don't think there was.

Q. Don't you remember a conversation with Mr. Knapp as to how much they were going to charge for the appeal? A. No sir.

Q. Or with Mr. Heath?

A. No sir. I asked them how much it would be and they said they couldn't tell.

Q. On the appeal? You had a special understanding with them on the appeal didn't you, that they would appeal it to the higher court and make you a flat charge, because they said they thought they could reverse it?

A. If it is the \$2500 and the \$1500, no sir. No sir, there was no more talk of fees.

(Testimony of Melanie Douillard Woodd)

By the Referee:

Q. Did the Douillard people get a judgment against you for \$7500? A. Yes sir.

Q. And was the Douillard judgment rendered before Heath and Knapp sued you, through Dr. Hovey? Was the Douillard judgment rendered by the Judge before Heath sued you through Dr. Hovey? Douillard got a judgment against you didn't he? A. Yes sir.

Q. Was that judgment before or after Heath and Knapp sued you? [70]

A. The friendly suit, you mean?

Q. I don't know whether it was friendly or unfriendly. They sued you and got a judgment against you and on that judgment sold all of your property.

A. Before the Douillard—Mr. Heath—

The Referee: Can you gentlemen help me out? This lady does not seem to have much idea about it. Was the Douillard judgment entered before the Hovey suit, before Hovey sued her?

Mr. Crandell: No, it was entered about fourteen days after the judgment in the Hovey suit, and the Hovey people came in and attached before the Douillard people could get around to it.

Mr. Bowden: In other words, Dr. Hovey got the property the Douillards were seeking—

Mr. Crandell: That is correct. It was just a question of which one could get there first.

By Mr. Bowden:

Q. How much money or cash did you inherit from your mother's estate?

A. I inherited a \$10,000 bequest and a one-fourth interest in all of the properties.

(Testimony of Melanie Douillard Woodd)

Q. Were you to get a \$10,000 bequest?

A. Yes sir, but I never got to touch it.

Q. When did you get that money?

A. I got that in September—the latter part, of 1938. [71]

Q. What did you do with that \$10,000?

A. I purchased the Vermont building and paid the Douillards \$4600 to equalize my one-fourth. I took my inheritance in that one building.

Q. What building is that?

A. At 824 South Vermont.

Q. That is the one you testified you sold later?

A. yes sir.

Q. Did you get that clear? A. Yes sir.

Q. Nothing against it? A. No.

Q. How much was it valued at in the distribution of the estate? A. \$15,500.

Q. How much did you get for it when you sold it?

A. \$7500.

Q. Who did you sell it to?

A. Attorney Vinecoff.

Q. Do you know him?

A. I do not. I never saw him in my life except once.

Q. When did you say you sold it?

A. I think in 1939.

Q. You didn't hold that property very long?

A. No; six months.

Q. Why did you sell it? [72]

A. It was empty; I couldn't rent it.

Q. And you got \$7500 in cash? A. Yes sir.

Q. What did you do with that money?

A. You don't want to know about my \$10,000?

(Testimony of Melanie Douillard Woodd)

Q. Well, I can't keep up with you. Now that was the \$7500 you put into the building and loan and the postal savings, was it?

A. Part of that money, yes sir.

Q. What was the rest of it?

A. The realtor fee was \$375.

Q. I am not asking you that.

A. What do you want to know?

Q. The \$7500 or whatever portion you got from the sale of the Vermont property, where did it go?

A. That is what I am telling you. I bought the Glendale property for \$2000 and fixed it up. I paid \$375 realtor fees, and escrow fees; and \$1500 for furniture.

Q. I think you went over that. You said you put \$5000 in the building and loan, and \$2000 in postal savings?

A. Yes sir.

Q. That is another \$7000.

A. That is the same money all of the time. I just had that one piece of money.

Q. You are confusing me.

A. You are trying to confuse the Referee, I think. [73]

Q. Let me ask you this question: The \$7500 that came from the property was put in the postal savings—

A. The \$7500 is here (Indicating memorandum) I went to the bank.

Q. Why did you take it out of there and put it in postal savings?

A. The bank only gives you a one-half percent and postal savings gives you three and I think the Westinghouse gave you four.

(Testimony of Melanie Douillard Woodd)

Q. Is that the reason you took it out? A. Yes.

Q. Is that the only reason? A. Yes.

Q. Did you ever have any money in the postal savings before? A. No.

Q. How long was it on deposit on the building and loan? A. Not long, I don't think.

Q. Do you have a book? A. No.

Q. What became of it?

A. I destroyed all of those things years ago.

Q. When did you destroy all of those records?

A. About 1940, I think.

Q. Now Mrs. Woodd, you have had considerable business and property transactions, haven't you? [74]

A. Yes.

Q. Have you ever kept any records of those transactions?

A. I did, but I have nothing now.

Q. Did you have complete records?

A. Yes sir.

Q. What became of them?

A. I destroyed all of them. I took sick and I had no use for them; I lost the case.

Q. In relation to the losing of the case, when did you destroy those records?

A. It was after Mr. Clements had me up in court.

Q. It was before that, wasn't it?

A. No; I brought all of the receipts. He had me up in Judge Carl Stutsman's court and had me examined to prove whether I had something.

Q. That was a supplemental examination to find out what property you had? A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. And you brought some records up there?

A. Yes.

Q. And afterwards you destroyed them?

A. Yes.

Q. How long afterward?

A. A month or two, maybe.

Q. And you now have no records?

A. None of any kind. [75]

Q. From what did you compile this record you have been reading from?

A. I can tell you this with my eyes closed, but I have been sick—I was operated on two months ago and I am nervous and have been in the hospital.

The Referee: Let's don't go over all of this.

Witness: Yes sir. But all of this is of record. I lost it first and then I commenced to win.

By Mr. Bowden:

Q. Do you know Mr. Knapp's secretary?

A. I do.

Q. Does she give you any accounting of these properties?

A. No; she does not have to. I have no interest in them any more.

Q. When was the last time you did get any sort of accounting?

A. Not for years; I don't have to have any.

Q. What about Mr. Heath, did he give you any accounting? A. No.

Q. Or Mr. Knapp? A. No.

Q. Or Dr. Hovey? A. No.

(Testimony of Melanie Douillard Woodd)

Q. You have complete charge of that Hobart property, have you not?

A. I collect the rents there where I live. [76]

Q. What arrangement or understanding do you have regarding your continuing to live there?

A. We have not had any.

Q. Who did you make your arrangements with first?

A. Mr. Heath.

Q. How long ago was that?

A. Years ago.

Q. Was it before or after the judgment?

A. After the property was sold, or some time through there.

Q. How long after?

A. Oh, I can't say exactly, sometime in there.

Q. What conversation did you have with him?

A. Just what do you mean? About the collecting of the rents, and why I should live there?

Q. Now look—that was your home, wasn't it.

A. It was once.

Q. And you lived there a good many years and after this friendly suit they sold it, didn't they? A. Yes.

Q. And then you say you had no further interest in it?

A. After it was sold I had no further interest in it.

Q. Now you must have had some arrangement or conversation about living in property that you had no interest in, didn't you? A. Yes sir. [77]

Q. Just tell us what it was.

A. Mr. Heath said I could live there until they sold the property. They were going to execute.

(Testimony of Melanie Douillard Woodd)

By the Referee:

Q. Who is "they"?

A. Mr. Heath and Mr. Knapp. They talked about selling the place and asked me where I would live.

By Mr. Bowden:

Q. When was that? A. In 1943.

Q. Since that time has the property ever been offered for sale or listed? A. I wouldn't know.

Q. You live there.

A. I am working every day.

Q. Have you ever seen a sign "for sale"?

A. No.

Q. Have you ever had anyone coming around looking at the property and asking the price?

A. No; just the banker came there to see it.

Q. As a matter of fact it never has been offered for sale, has it? A. I don't think so.

The Referee: We will take a ten minute recess.

(Whereupon a recess was had, after which the witness was returned to the stand and the examination continued.) [78]

By Mr. Bowden:

Q. Mrs. Woodd, what was the total appraised value of your mother's estate? A. \$70,000.

Q. Under the terms of the will you were to receive \$10,000 as a cash bequest?

A. Yes; for my kindness to my mother.

Q. And then you were to receive one-fourth of the remainder of the estate? A. Yes.

Q. And you did receive it?

A. Yes; I relinquished all my rights in all of the other properties through deeds to the Douillards and I

(Testimony of Melanie Douillard Woodd)

took my one-fourth interest and my \$4600 to equalize the one-fourth interest in that one building.

Q. And in addition to that you held in joint tenancy with your mother a piece of property which has been referred to as the Yarborough property?

A. Yes, she gave me that.

Q. And upon her death the joint tenancy was terminated and the property put in your name?

A. That is right; there was a \$2400 mortgage on that.

Q. That property was then sold to the Yarboroughs?

A. Yes sir.

Q. How much did you get for it?

A. I think it was \$800. [79]

Q. You had a note for \$800 or something around that, from the Yarboroughs, as your interest in the property?

A. Yes sir.

Q. What became of that?

A. I assigned that to Dr. Hovey through Mr. Heath as partial payment of the Hovey judgment.

Q. For attorneys' fees? A. Yes sir.

Q. When did you do that?

A. I did that right after the case, in February, 1939, I think.

Q. That was after they had executed on the property, was it? A. Yes sir.

Q. And after they had all of the rest of your property; this was all you had left?

A. That was the first piece they got.

Q. They had the Hobart property?

A. The Hobart property is the Yarborough property; there is no other Hobart property. There is the Virginia

(Testimony of Melanie Douillard Woodd)

Avenue property, and that little house on the rear faces Hobart.

Q. Well, Dr. Hovey testified and I guess you heard him?
A. Yes sir.

Q. That the Hobart property consisted of a house known as 1152 and 1156 on Hobart and a house on Virginia Avenue, [80] is that correct?

A. No sir.

Q. Then you explain it for us.

A. The Yarborough property is 1160 North Hobart; the properties stand side by side.

Q. What is 1152?

A. That is the big house; I cut it in half and made the duplexes; that faces Hobart.

Mr. Bowden: Will the Court instruct the witness to answer the question?

The Referee: The trouble is you go over the same thing time and time again. This has been told at least twice before.

Mr. Bowden: I think that is correct, but we have had no explanation of the Yarborough property.

The Referee: All right.

By Mr. Bowden:

Q. The Yarborough property is what?

A. 1160 North Hobart.

Q. And that is how close to 1152 Virginia Avenue?

A. It touches the back end of the lot.

Q. Is it on a separate lot from the Virginia Avenue?

A. Yes sir.

Q. How large a house is the Yarborough house?

A. Five rooms.

(Testimony of Melanie Douillard Woodd)

Q. Are they still living there? [81]

A. They are.

Q. Then you assigned the note to Dr. Hovey after he got this judgment against you?

A. Well, that I cannot say. I know I assigned this through Mr. Heath as partial payment on the judgment; this note was turned in as partial payment.

Q. Then it must have been on the judgment Dr. Hovey got against you? A. Yes sir.

Q. Did you get a receipt or credit or anything of that kind from Mr. Heath? A. Did I get a receipt?

Q. Yes. A. I don't remember.

Q. How much credit did he give you on the note?

A. Well, I think there was \$668 or near \$700 balance due on that.

Q. And that was to be a part of the \$4500 judgment?

A. The \$4000 judgment.

Q. And that was assigned to Dr. Hovey?

A. Yes sir.

Q. And you got no receipt or no credit that you recall?

in the court house; it is there.

Q. Did you get any note or memorandum of it from anyone? A. I don't think so. [82]

Q. Where were you when you signed this note?

A. In Mr. Heath's office.

Q. How did you happen to be there?

A. He 'phoned for me to come in.

Q. What did he say to you when you went in?

A. Mr. Knapp had asked him for his fees or some kind of an arrangement for his fees, so I thought I would give them the Yarborough note and probably Glendale.

(Testimony of Melanie Douillard Woodd)

I didn't know how I would do it, but some way; and when I said to Mr. Knapp, "I will give you the land" he said, "I don't think much of it, I want my money", so I deeded over this Yarborough note to Dr. Hovey, but Dr. Hovey was not there.

Q. Why didn't you give it to Mr. Knapp?

A. Mr. Heath was my attorney—Mr. Knapp was called in later—Mr. Heath did not take in Mr. Knapp, I took in Mr. Knapp.

Q. Was it Mr. Heath who wanted the money of Mr. Knapp who wanted the money you were talking about?

A. Mr. Knapp wanted his money and Mr. Heath wanted his money too.

Q. What did you intend that Dr. Hovey should do with his Yarborough note?

A. I don't know; I had no dealings with Dr. Hovey.

Q. Well, with Mr. Knapp or Mr. Heath or either of them—they said they wanted their money and you said "I will sign this Yarborough note to you"; is that right? [83]

A. Yes.

Q. Didn't you ask them why it was being assigned to Dr. Hovey?

A. Did I ask them why?

Q. Yes.

A. Well, Mr. Heath told me many times he owed Dr. Hovey some money, he didn't tell me how much, and that is all I know about it.

Q. Well, who did you understand to be the owner of all these properties?

A. I understand Dr. Hovey is.

Q. He owns them himself?

A. I guess so.

(Testimony of Melanie Douillard Woodd)

Q. Do you owe Mr. Heath or Mr. Knapp any money at the present time?

A. I do. I owe Mr. Heath \$2500 and Mr. Knapp \$1500, and I don't know how many hundred dollars is tacked on now.

Q. What is this \$2500 you owe now, and this \$1500? That is in the judgment, is it not?

A. Yes sir.

Q. Then how do you figure you owe them \$2500?

A. Don't I owe them?

Q. Well, they have all of your property, haven't they?

A. Yes. Then I don't owe them anything, is that it?

Q. I am just asking you how you could owe them \$1500 and \$2500 when they have all of your property. [84]

A. Then I don't owe them anything, do I?

Q. Do you have any bills from them?

A. No.

Q. Or any note on it? A. No.

Q. Did you ever talk to them about it?

A. Not for years.

Q. Did you ever talk to Dr. Hovey about it?

A. No sir.

Q. You never had any discussion about it?

A. No sir.

Q. Now you had a piece of property which was partially condemned by the City of Los Angeles?

A. Yes sir.

Q. Where was that property?

A. There is a causeway going through the Virginia property and they were going to take the Virginia property.

(Testimony of Melanie Douillard Woodd)

Q. What did you get?

A. I didn't get anything, because it didn't go through.

Q. Didn't you get \$500 as a condemnation award?

A. Not from the Virginia property.

Q. Well, from any place.

A. No, not from any place. I think you are trying to get to the railroad, its that what you mean?

Q. Yes.

A. Well, there was a piece of my Father's property [85] that the railroad went through the estate. I didn't get that money, it was assigned to Mrs. Knapp.

Q. Who assigned it to Mrs. Knapp?

A. I assigned it.

Q. Why? A. I couldn't get it.

Q. Was it coming to you?

A. It should have. That money was attached by Heath and Knapp.

Q. At the time of the Hovey suit? A. Yes sir.

Q. So that is another \$500, is that correct?

A. Yes sir.

Q. Did you ever get any credit or memorandum showing credit for that payment?

A. I think Mrs. Knapp used that money for transcripts or books or something. I don't know; I assigned it to her.

Q. Now substantially all of the money that Mr. Heath and Mr. Knapp claimed as attorneys' fees arose from the estate of your mother?

A. Yes, but there was some before. There was quite a case before that for Mr. Heath. My brother tried to declare my mother and his mother insane; and he wasn't paid for that.

(Testimony of Melanie Douillard Woodd)

Q. But substantially all of this \$7,000 was incurred in that estate, wasn't it? A. Yes sir. [86]

Q. Who was the executrix of your Mother's estate?

A. I was.

Q. Who represented you as the executrix?

A. Mr. Heath; he was my cosigner with me.

Q. He was your attorney in the case, wasn't he?

A. Yes; and I was under a \$30,000 bond and he was my cosigner with me.

Q. That is signing your checks? A. Yes sir.

Q. And he was your attorney in that case?

A. Yes sir.

Q. How much fee was he allowed in that case?

A. I think the court allowed him \$1500, but that had nothing to do with the Douillard case; that was my Mother's estate; they were two different cases.

Q. In any event Mr. Heath did get paid \$1500 for his services in that estate?

A. From my Mother's estate; yes sir.

Q. And the only services that Mr. Heath and Mr. Knapp performed for you after the closing of your mother's estate was in connection with this Douillard case, wasn't it? A. Yes sir.

Q. Have you ever had at any time an accounting with Mr. Heath or Mr. Knapp regarding their legal services?

A. No, I have not. [87]

The Referee: As I understand it, they sued and got a judgment on that, Mr. Bowden, and an execution.

Witness: Yes sir.

Mr. Crandell: That is an accounting, counsel knows that.

(Testimony of Melanie Douillard Woodd)

The Referee: Certainly; they brought a suit and got a judgment for \$4,000.

Mr. Bowden: According to her testimony she should have an accounting on the judgment; she has a lot of credit on the suit.

The Referee: She said she paid for the costs and transcripts and so forth.

Witness: That's right.

By Mr. Bowden:

Q. Did you ever get a bill for those?

A. No, I didn't. That was between Mrs. Knapp and I.

Q. Mrs. Woodd, you testified you had another account besides this Security-First National Bank, in the Citizens Bank?

A. Yes; I had the estate account there.

Q. Did you have a personal account there?

A. I don't know; I might have had, I don't know; that was years ago.

Q. Did you have any sum of money in excess of \$1000 in any account other than this Security account, at any times? [88]

A. No.

Mr. Bowden: That is all, if the Court please.

The Referee: All right. Madam, you may stand aside. Do you have some more witnesses?

Mr. Bowden: I don't think so today; I am going to have to get some subpoenas, but we can put it off calendar at this time, I think.

(Court adjourned)

[Endorsed]: Filed Nov. 6, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sept. 16, 1946. Edmund L. Smith, Clerk. [89]

[Title of District Court and Cause]

Before Hon. Hubert F. Laugharn, Referee

REPORTER'S TRANSCRIPT OF FIRST MEETING
OF CREDITORS

Los Angeles, California. Wednesday, October 3, 1945

Appearances:

For the Trustee: Leslie S. Bowden, Esq.

For the Bankrupt: Earl F. Crandell, Esq.

Los Angeles, California. Wednesday, October 3, 1945
2:00 o'clock, P. M. Session.

The Referee: What type of proceeding is this?

Mr. Bowden: It is an examination of witnesses under 21-A. It will probably take some considerable length of time. We have two witnesses under subpoena.

Mr. Crandell: Three.

Mr. Bowden: I understand one won't be here. The representative of the bank is here and Mr. Hovey is here.

The Referee: We have a complication on the calendar here. I wonder if you could accomplish anything by examining the representative from the bank in my chambers.

Mr. Bowden: I think we could dispose of it that way.

(Parties retire to chambers.)

Mr. Bowden: If the Court please, I was presented with a photostatic copy of the signature card and the

mortgage card of the bankrupt. I would like to have it received in evidence.

The Referee: It will be received as Trustee's exhibits. We will attach them both together and call them Trustee's Exhibit 1.

Now, is that all from this witness?

Mr. Bowden: Yes. That gives us all the information we want from the representative of the Security-First National Bank and he may be excused, if the Court please. [2]

The Referee: The witness is excused. Now are there any other matters you want to take up without a reporter?

Mr. Bowden: I don't believe so. I think we should have the entire matter reported.

(Short interruption at this point pending disposal of other cases on the calendar.)

M. L. HOVEY,

called as a witness on behalf of the Trustee, being first duly sworn, testified as follows:

Direct Examination

By Mr. Bowden:

Q. What is your name? A. M. L. Hovey.

Q. What is your business?

A. I am a chiropractor.

Q. Doctor, do you know Mrs. Woodd, the bankrupt in this case? A. Yes.

Q. How long have you known her?

A. Oh, I don't know. Let's see. About seven or eight years, I believe. I don't know exactly.

(Testimony of M. L. Hovey)

Q. Have you attended her professionally?

A. I have, yes.

Q. How long ago? [3]

A. I don't recall, but I believe about six or seven years ago. About five or six years ago, I guess it was, I gave her the first treatment.

Q. Where did you first meet her?

A. First professionally?

Q. Anywhere at all.

A. I met her in my office in the Johnson Building. I don't know what year that was. I don't recall exactly.

Q. You are not engaged in any other business, are you?

A. No.

Q. Did you have occasion to sue Mrs. Woodd some time ago?

A. That was done. Yes; that was a suit for—

Q. For attorney fees, wasn't it? A. Yes.

Q. Who were the attorneys?

A. Well, the fees was owed to Heath and Knapp and her attorney, I don't recall his name exactly.

Examination

By the Referee:

Q. How did you become involved in this complicated situation? It was not a bill—

A. No. It was an assignment.

Q. —that you were suing your patient on, was it?

A. Oh, no. [4]

Q. Who approached you?

A. It had nothing to do with it.

(Testimony of M. L. Hovey)

Q. Who approached you to become interested in this matter?

A. Well, I had for many years, twenty years or more, I had assigned claims and assigned suits for Mr. Heath.

Q. I see.

A. That is how it happened.

Q. For twenty years or more Mr. Heath, an attorney, had assigned claims to you upon which you acted as plaintiff and suit was brought in your name?

A. Correct.

Q. You knew Mr. Heath then long before you knew Mrs. Woodd?

A. That is right.

Q. Did she come to you through Mr. Heath?

A. I believe I was introduced to her first. That was why I was so vague, but I know I have known her because I have a vague memory of having been introduced to her in his office some time before I treated her.

Q. He was her attorney?

A. That is correct.

Q. What did he say to you in connection with being a plaintiff against her?

A. He said it was a friendly suit to establish a just legal claim on some legal matters he had handled for her and [5] the suit would be assigned to me in my name and he would sue in my name and he asked my consent to do that.

Q. Then what were you going to do after you sued and got judgment? Were you going to take Mrs. Woodd's property away from her?

A. That property was to be assigned to me until the claim was settled and the legal fee collected.

(Testimony of M. L. Hovey)

Q. You did go ahead in the suit and take the property away from this lady, didn't you?

A. Yes. And the appeals against the property, the way I understand it, all of the property has been mortgaged and there was not a very great equity in it any time.

The Referee: Any other questions?

Mr. Bowden: Yes, your Honor.

Direct Examination Resumed

By Mr. Bowden:

Q. Did you receive any compensation for your services in the matter?

A. I have received a \$100 expense account from Mr. Heath. That was to come out of this, in addition to some other personal matters between he and I.

The Referee: What does all that mean?

The Witness: Well,—

The Referee: Read the question. (Question read.)
The question is, did you receive any compensation? [6]

The Witness: No.

The Referee: That is a pretty clear question.

The Witness: No, I have not received any compensation yet.

Mr. Bowden: Q. Have you any understanding with Mr. Heath or Mr. Knapp as to what you are to receive, if anything? A. Not yet, no.

Q. What do you mean by that? Do you intend to have such an understanding?

A. Mr. Heath, when he first assigned the claim to me, he said, "I don't believe there will be much work or inconvenience to you and what ever it turns out should be done I will compensate you for it."

(Testimony of M. L. Hovey)

Q. Mr. Heath is now deceased? A. Yes.

Q. Who do you see about this matter now; Mr. Knapp? A. That is right.

Q. How much rent, if any, have you received from the property?

A. The rent is always, until Mr. Heath's recent illness, been paid directly to the law office secretary and she has taken care of it. I don't know how much there is in that.

Q. Who is the secretary of the law office?

A. Mrs. Knapp.

Q. That is Mr. Knapp's wife, is that right? [7]

A. Yes.

Q. Do you know who paid that money in to Mrs. Knapp?

A. The tenants of the property paid that.

Q. Who collects it?

A. They pay it to me right now.

Q. They pay it to you. But who actually collects the money?

A. Well, Mrs. Smith in Glendale always sends her check by mail.

Q. Doesn't Mrs. Woodd actually collect the money?

A. No She collects the money in the house in which she lives.

Q. That is the other property? A. Yes.

Q. Do you hold the title to it? A. Yes.

Q. Does she send that money to you?

A. That money comes to me, yes. It is turned over to the bank on the loan.

Q. She lives in the house? A. Yes.

(Testimony of M. L. Hovey)

Q. Does any one else live in it?

A. There is other tenants there. I would have to look it up in my rent book to know who they are.

Q. For the purpose of the record, what is the street address of the house in which you say Mrs. Woodd lives and [8] collects rent?

A. That is Virginia and Hobart, the corner of Virginia and Hobart. I don't know the number.

Q. Do you know what type of house it is?

A. It is a large old-style house, bungalow type, divided for several tenants. I believe there are two now.

Q. What is the mortgage against it, do you know?

A. The mortgage is approximately \$2800. I don't know exactly.

Q. How long have you been collecting the rent from that place?

A. The rent has been coming to me just the last two or three months.

Q. How much is the rent?

A. I believe it is about \$70.

Q. Does Mrs. Woodd pay anything for her rent there?

A. No. She takes care of that place for me and gets her rent for that.

Q. Did you make that arrangement with her?

A. I made that arrangement that she was to do that, yes.

Q. When did you make that arrangement?

A. Oh, quite a long time ago.

(Testimony of M. L. Hovey)

Examination

By the Referee:

Q. Did you make the arrangement or did Mr. Knapp? [9]

A. Well, they suggested that I do it and I talked to her and asked her willingness to take care of it. Plumbing bills had come up and things like that that—

Q. Are you friendly with Mrs. Woodd?

A. Yes.

Q. Is she still a patient of yours?

A. Well, I have not given her any recent care, no, but occasionally—

Q. When is the last time?

A. I should judge I may give her six or eight or perhaps as much as ten treatments a year.

Q. That runs along? A. Just occasionally.

Q. This friendly litigation you have mentioned here, just what do you mean by that? Apparently this litigation has taken all of her property away.

A. Well, she had, as I understand, very little actual equity in that property. Of course, it isn't ended. I don't know yet what there is in it.

Q. You indicated something about she would pay money back or pay the bill. Just what were you referring to along that line at first?

A. That she would what?

Q. Was she to repay something and get the property back, or what?

A. No. There is no arrangement of that kind at all. I [10] don't believe she is going to have any value or any equity in her property at all.

(Testimony of M. L. Hovey)

Q. How much is the judgment, the one that you have against her, the one upon which the property was sold under execution of sale?

A. I don't remember what it was. It was around \$7,000; \$6,000, or \$7,000, I don't recall.

Q. What did that represent in the first instance, money loaned?

A. I don't know whether that was money loaned or all legal fee.

Q. Who told you it was a friendly suit, Mrs. Woodd or Mr. Knapp?

A. The original suit; that was what I was told at that time, that it was a friendly suit to establish a fair and reasonable legal expense.

Q. Who told you that? A. Mr. Heath.

Q. Oh, I see, Mr. Heath was the first who told you that? A. Yes.

Q. What did Mrs. Woodd tell you about it?

A. Well, I didn't talk with her about it.

Q. Your idea of it was it was a friendly suit to establish the amount of an attorney fee? A. Yes.

Q. For services which Mr. Heath had rendered? [11]

A. Mr. Heath and Mr. Knapp.

Q. Services Mr. Heath and Mr. Knapp had rendered?

A. If they had advanced money to her, I don't know. I never talked to her about the legal part of it at all.

The Referee: Any other questions?

Direct Examination Resumed

By Mr. Bowden:

Q. The suit was originally for \$7500 or \$7,000?

A. Yes, something like that; I don't know exactly.

Q. You took judgment for \$4,000? A. Yes.

(Testimony of M. L. Hovey)

Q. By consent of Mrs. Woodd?

A. About \$4,000.

Q. It was just an even \$4,000, wasn't it?

A. I don't know.

Q. Anyway, it is something around \$4,000?

A. Yes.

Q. It is not \$7,000? A. No.

Q. How many pieces of property did you levy on under that judgment?

A. I don't know whether that was against both properties or not. I don't know.

Q. You levied on a piece of property in Glendale, did you not? [12] A. Yes.

Q. And also on this Virginia and Hobart property?

A. I think it included both of them, yes.

Q. What is the property down in Glendale; where is it located and what type of property is it?

A. That is a single dwelling. I believe that is at 1255 Glendale Avenue.

Q. Do you know how large it is?

A. Oh, it is about a five-room house.

Q. What is the rent?

A. \$30 a month.

Q. Now, what is the size of the house at Virginia and Hobart?

A. I don't recall how many rooms there are there in that house.

Q. It is quite a large house?

A. It is a pretty good-sized house.

Q. What do you think it is worth?

A. Oh, I don't know.

(Testimony of M. L. Hovey)

Q. \$10,000?

A. Oh, no, I don't think so. Oh, no. Offhand, I would say perhaps \$5500.

Q. What do you think the Glendale house is worth, \$7500? A. No, about \$3800, I should judge.

Q. I am not talking about values before.[13]

A. I know.

Q. I am talking about today's market. What is your opinion today as to the value of the houses?

A. That is my opinion as to about what they are worth.

Q. Have you made any inquiries?

A. Very little.

Q. Have you offered them for sale? A. No.

Q. Why haven't you?

A. The case has not been settled. I can't transfer them. I don't want to transfer them until—

Q. I understood you had an execution.

A. That is right.

Q. And you bought them at execution sale?

A. That is right.

The Referee: Q. What do you mean? You mentioned before, Doctor, the case has not been settled. What do you mean by that?

A. Well, Mr. Knapp, the one last remaining of the original attorneys, I don't believe is satisfied. There is an appeal of some kind at the present time in regard to it, and until that is disposed of I don't see how it could be disposed of, the property, in any way.

The Referee: Whatever interest Mrs. Woodd had, as I understand it, has been lost or passed from her.

(Testimony of M. L. Hovey)

The Witness: Absolutely. As a matter of fact, I believe [14] she owed me \$200 or the attorneys, something of that kind. I don't know exactly who she owes it to.

Mr. Bowden: Q. Have you any written agreement with Mr. Heath or with Mr. Knapp as to these two properties? A. No.

Q. But as far as the record is concerned they both stand in your name now? A. Yes.

Q. Have you signed any deeds to any one affecting these properties?

A. Not that I can recall. I don't recall signing any deeds. I applied for a loan and got a loan renewed.

Q. On which property? A. On both of them.

Q. What is the loan on the Glendale property?

A. About \$770, I believe, now.

Q. And \$2800 on the Hobart property?

A. Yes, I think so.

The Referee: Q. Did they require Mrs. Woodd to sign anything when you got the loan renewed, do you remember?

A. I believe they did on one of them, yes, and the other one they did not.

Q. What was it that she had to sign, do you know?

A. I think it was a waiver of any interest, or something of that kind. I don't know exactly.

Q. How long ago was that? [15]

A. That loan was renewed about two or three months ago.

Q. That was the time when she made some type of release, was it? A. Yes.

(Testimony of M. L. Hovey)

Mr. Bowden: Q. Now, Doctor, this Hobart property was Mrs. Woodd's home, was it not, or still is?

A. Yes, she lives there now.

Q. She had a homestead on the property prior to the time you sold it at execution? A. Yes.

Q. What happened to that homestead? Just tell us generally what was done?

A. She was paid a thousand dollars, I believe, for that homestead.

Q. Who paid her the thousand dollars?

A. I paid her through Mr. Heath.

Q. What do you mean you paid her through Mr. Heath? A. Mr. Heath paid it.

Q. Did you furnish the money? The answer is yes?

A. Yes.

Q. What understanding or arrangement did you have with Mr. Heath regarding that thousand dollars or the repayment of it?

A. I didn't have any particular—for that particular thousand dollars I had no arrangement because I had more or less of a general going business with him for a number of years. [16]

Q. What do you mean by "general going business"?

A. Well, he assigned things to me of that kind, several different places, in the last twenty-five or thirty years.

Q. You had no interest in this judgment of \$4,000 that you brought? A. No direct interest in it.

Q. And now you hold title to the property?

A. Yes.

(Testimony of M. L. Hovey)

Q. With no arrangement or understanding with anybody as to what is to become of it?

A. As soon as we can clear the property then something can be done, but nothing can be done until then.

Q. What is going to be done when you acquire the property?

A. We have no arrangement made there about it, like I say. I had no agreement even with Mr. Knapp because he was not a partner of Mr. Heath's at the time he and I first entered our business arrangement together.

Q. Supposing something should happen to you, what would become of the property? Have you any ideas on that subject, Doctor?

A. Well, I don't know.

Q. Do you consider it as your property?

A. Yes.

Q. And that nobody else has any interest in it?

A. Mr. Knapp will have a legal interest in it because [17] I don't believe the bills have been paid yet.

Q. What has Mr. Knapp got coming?

A. I don't know how much he has coming on it.

Q. What has Mr. Heath coming, or his estate?

A. I believe that the original fees there was \$1500 for Mr. Knapp and \$2500 for Mr. Heath, but there is additional legal expenses. I don't know what they consist of.

Q. Do you have all of the records regarding the collection of rents and the payments under these mortgages relating to these two pieces of property?

A. Yes.

Q. Do you have them with you?

A. I have some of them and some of them are at the law office.

(Testimony of M. L. Hovey)

Q. Does Mr. Knapp have some of them?

A. Yes.

Q. Or does she have all of the records that you don't have?

A. I suppose so because I have all of the rent books and the payments to the bank from the Virginia Avenue place. I don't believe I have the bank book either, but I have the bank book for the other property on Glendale Avenue.

Q. When Mrs. Woodd was given this thousand dollars to pay off her homestead what conversation did you have with her regarding that matter?

A. I did not have any conversations at all with her. [18]

Q. Who did you have a conversation with?

A. Mr. Heath took care of that entirely.

Q. Didn't you talk to him about it?

A. Yes, he asked my consent.

Q. Just tell us what he said and what you said and how it came about?

A. Well, he said she wanted a thousand dollars for her homestead on that place and asked what I thought about it. I told him it looked to me like it was worth it.

Q. Did he ask you to furnish the thousand dollars?

A. Not directly, no. Mr. Heath owed me some money then.

Examination

By the Referee:

Q. Who furnished the thousand dollars? Let's get that transaction.

A. That was out of him. He paid it then.

(Testimony of M. L. Hovey)

Q. Who handed the money to Mrs. Woodd?

A. That I don't know.

Q. You did not see that? A. No.

Q. He told you that he had taken care of it?

A. That is right.

Q. You had no part of that at all?

A. That is right.

Q. How long ago was that? Was that shortly after you [19] filed the suit or after the execution sale?

A. I don't remember.

Q. How many years ago was it, would you say?

A. I would say about five maybe.

Q. Then it was near the inception of the litigation, wasn't it? A. Yes.

Q. Probably some time after the sale?

A. No, it was before the sale. I don't know, to tell the truth.

Q. That date can be fixed, I assume. He told you a thousand dollars had been given to Mrs. Woodd?

A. Why, Mr. Heath did.

Q. You don't know then that a thousand dollars was given to her other than that statement? A. No.

Q. You did not see it? A. No, I didn't, no.

Q. You did not ever see a check, did you?

A. No, I don't recall that.

Q. So that would be the source of your information?

A. Yes.

Q. Possibly Mrs. Woodd told you, did she, or don't you know?

A. I don't remember talking to her about it.

Q. Of course you would not put up a thousand dollars [20] yourself, would you? You were merely acting as plaintiff? A. That is right.

(Testimony of M. L. Hovey)

Q. You were not expecting to get anything out of it except a nominal amount? A. That is right.

Q. Would you say about \$100 or \$200 for your trouble, or was it more than that?

A. I think this ran into considerably more than that, actually, now.

Q. Did you have an account with the attorney as to how much you had coming from him or he to you?

A. In regard to this case, no.

Q. Or other cases? A. In other cases.

Q. What was the condition of that account at his death. How much did you owe him or how much did he owe you? A. He owed me about \$1200.

Q. About \$1200? Then you were holding this, or you were holding this property as security for a repayment of that? A. Yes.

Q. Does that \$1200 include also what you were to get for acting as the nominal party-plaintiff?

A. That is right.

Q. It was in that amount? A. It included it.

Q. So far as you are concerned now whoever owns this [21] property, whoever is the actual ultimate owner, you are holding it for \$1200 that Mr. Heath owes to you?

A. He personally owed me \$1200 and when the case is settled he and I was to settle.

Q. Which means before he asked you for the release of this property you assumed he would pay you the \$1200. A. Yes.

(Testimony of M. L. Hovey)

Mr. Bowden: Q. Doctor, I am a little confused. You said a few moments ago you furnished the thousand dollars.

A. Well, that is the way in which I furnished it. Mr. Heath—

Q. Is this thousand dollars part of the \$1200 you are talking about? A. Yes.

Q. So Mr. Heath does not owe you?

A. The thousand dollars put up for the homestead?

Q. Yes. A. Oh, no, not—

Q. Didn't you say a few moments ago you furnished the thousand dollars to pay off Mrs. Woodd?

A. That came out of Mr. Heath's pocket, but it was out of what he owed me for temporary use.

The Referee: Just keep on talking and maybe you will finally explain it. Don't interrupt him any more. You go ahead. You have the floor. You just explain it and we will try to digest some of the facts. Just go ahead and explain it. [22]

The Witness: Mr. Heath and I had worked indirectly together a number of years on many different accounts and we had never come to a settlement. Whenever I wanted some money I would go to him and get ten dollars or one hundred dollars or something that I needed and we never had a settlement. When his health began to break he began to talk about getting things in shape between us, but he expected up to the last to be able to get out and get into court and straighten these things out. So I have actually been left up in the air in regard to his case. I feel that I have got \$1200 equity coming out of it for the work I have done for Mr. Heath. And that is just about all there is to it. And I don't know how much legal fees are. I have talked with Mr.

(Testimony of M. L. Hovey)

Knapp and he said if I insisted on getting that much there would be absolutely nothing and, as a matter of fact, she would still owe the balance on the execution.

The Referee: Q. How much?

A. I don't know. He said it would be around \$200. That is why I mentioned it awhile ago.

Q. Now getting back to the \$1200 and the \$1,000 payment I haven't got that quite clear yet. Let's go back and cover that.

A. The business arrangement between Mr. Heath and I was over several years and the thousand dollars that he put up for the homestead price I have no idea whether he took it out of my account that he owed me or took it out of his own [23] pocket. I don't know. I have no idea where that came from. But I know that he owed me a thousand dollars for some years back and I was to get it out of this case when it was settled. I wonder if that clears that up?

Q. Yes. It at least gives another angle to it. You have a thousand dollars. I thought it was \$1200.

A. Yes. \$200 of expenses and a thousand dollars that he owed me from several years back.

Q. I see. Now, for several years back, that was before this litigation? A. Yes, long before.

Q. Long before this litigation Mr. Heath owed you a thousand dollars?

A. (Witness nodding head in the affirmative.)

Q. What did you owe Mr. Heath, if anything?

A. I don't know.

Q. If Mr. Heath owed you a thousand dollars and you owed Mr. Heath \$900 then the balance would be \$100 in your favor, wouldn't it? A. No.

(Testimony of M. L. Hovey)

Q. Mr. Heath years before this litigation owed you a thousand dollars, is that right?

A. That is right.

Q. Now we have got that. And he still owes it to you?

A. That is right.

Q. That is, up to the time of his death. Now, did you [24] owe any money to Mr. Heath?

A. No.

Q. Then the account was balanced in your favor for a thousand dollars?

A. He still owed me some legal fees for the frequent trips I have made from my office, like this venture, where I have to be away, and that was to come in as part of the expense account of this suit—the \$1,000.

Q. Oh, I see. That is in addition to the thousand dollars?

A. Yes.

Q. And that you estimate would build it up to \$1200?

A. That is right.

Q. Your account with Mr. Heath is really in two categories: one is the \$1,000 long before this litigation, and the other is the accumulation of small expenses aggregating \$200 attributed directly to this litigation?

A. Not entirely so. I think I have got myself involved there because I was to get \$1200 out of this as my part of handling this, taking care of this, but I told him if he could get it straightened out we would forget the rest, the old account, and that would just come to \$1200 for the whole thing.

Q. In other words, for handling this litigation and being the plaintiff over all of these years you were to get \$1200? [25]

A. Yes.

Q. When the property was sold?

A. Yes

Q. Did you agree with him that that would be a fair compensation for those services?

A. Yes.

(Testimony of M. L. Hovey)

Q. What did those services consist of generally, that is, being the plaintiff and appearing here today? I imagine you had to appear in court, didn't you?

A. Many times, I think.

Q. And you made rental collections?

A. Yes, sir.

Q. And the release on this refinancing, you had to sign the papers, didn't you? A. That is right.

Q. For those services then, inconnection with this litigation, you were to get \$1200 and the property was then more or less held by you as security for the payment of that? A. That is right.

The Referee: Any other questions?

Direct Examination Resumed

By Mr. Bowden:

Q. Did you collect any rent from either one of these properties up until the time of Mr. Heath's death?

A. At the time of his illness I began to collect rent, [26] just before his death.

Q. But not prior to that time?

A. No, that was taken care of in the office.

Q. Who took care of it?

A. Well, Mr. Heath or Mr. Knapp, I don't know which.

Q. You did not have anything to do with it?

A. I went out to see the property first when it was first sold.

Q. But I mean you did not have anything to do with it?

A. I did not have anything to do with the business.

Q. Handling the money or paying on the trust deeds or anything? A. That is right.

(Testimony of M. L. Hovey)

Q. Was there any accounting made to you as to what was done in that respect? A. No.

Q. That is, how much rent was collected and how much was paid out in taxes or on the trust deeds or accounts?

A. I think all of those bills were retained there in the office and no settlement was made.

Q. Mr. Heath and Mr. Knapp officed together, did they not? A. Yes.

Q. And they did up until the time of Mr. Heath's death? A. Yes.

Q. Why did you take over the management of these [27] properties upon Mr. Heath's illness?

A. Mr. Heath suggested that I had better do that, that he could not take care of those things.

Q. Did you have any conversation with Mrs. Woodd about that? A. No.

Q. When did you last talk to Mrs. Woodd about this property or this case of yours?

A. Well, I have always refrained from talking to her about it other than she would take care of the bills and she would notify me when an expense was involved and occasionally she would call Mrs. Knapp and Mrs. Knapp would call me.

The Referee: Q. To take care of what bills?

A. She would take care of the general up-keep and the small things that would occur.

Q. But she lost this property, you had taken it away from her, isn't that correct?

A. Yes, but she is doing that because I don't get around very well and somebody has to do these things for me.

(Testimony of M. L. Hovey)

Q. But she has no interest in the property?

A. No, she has absolutely no interest in the property.

The Referee: Any other questions, Mr. Bowden?

Mr. Bowden: Q. Doctor, you have known Mrs. Woodd and some of her relatives and brothers and sisters for a good [28] many years?

A. I met a nephew of hers some years ago.

Q. Didn't you live in one of their houses for some period of time?

A. Not that I know of. That Vermont property was at one time in here name, I believe.

Q. That is what I am coming to. You lived in the Vermont Avenue property?

A. Yes, I moved in there one time.

Q. How long ago was that?

A. Well, I lived there approximately three years ago.

Q. Was Mrs. Woodd living there? A. No.

Q. Who was living there?

A. There was nobody there. I paid my rent to Mr. Heath.

Q. To Mr. Heath? A. Yes.

Q. And Mrs. Woodd owned the place?

A. I don't know whether she owned the place at that time or not. I don't think so. I believe I was there when that place was sold by the bank. I received a notice that it was being sold, as one of the tenants.

Q. Mrs. Woodd sold it, did she not?

A. I don't know who sold it.

Q. You don't know anything about that?

A. No, I don't. [29]

(Testimony of M. L. Hovey)

Q. Now, after Mrs. Woodd received her thousand dollars from this homestead it is your contention she had no further interest in the place?

A. That is right.

Q. Did you have any further conversation with Mrs. Woodd or Mr. Heath regarding what was going to be done with the house after the thousand dollars was paid Mrs. Woodd?

A. I don't remember.

Q. Did you discuss it with Mr. Heath?

A. I never discussed it with Mrs. Woodd at all.

Q. Well, did you discuss it with Mr. Heath?

A. I don't recall discussing it with him.

Q. You weren't collecting the rents at that time?

A. No.

Q. You must have discussed it with somebody, didn't you, Doctor?

A. The homestead payment?

Q. No. What arrangements you were going to make with her, did you discuss that?

A. No. Mr. Heath asked if I didn't think it was all right to have her look after the property as long as she was right there.

Q. Is that all he said to you about it?

A. That was all that was said about it.

Q. How many apartments are in that property? I am referring to the Hobart property? [30]

A. Well, I don't know.

Q. How many tenants are there?

A. There is two or three tenants there. I don't know exactly.

Q. What does each one of them pay?

A. As to that I don't know either.

(Testimony of M. L. Hovey)

Q. Have you ever seen the property?

A. Oh, yes.

Q. When were you there last?

A. Oh, I treated a patient in that house about a year ago.

Q. Have you seen the property in the last few months? A. No.

Q. You don't know the names of the tenants or how many there are or what they pay?

A. I don't know exactly. I believe the rental, the income, the way I remember it, is around \$70 a month. That is all I recall about it.

Q. Mrs. Woodd sends that money to you every month?

A. That money is sent to the bank or to the law office.

Q. What is that for, do you know?

A. Well, I believe Mrs. Knapp is taking care of it. I think she makes the payments to the bank. I don't make the payment to the bank.

Q. Have you any arrangement with Mrs. Knapp about the property? [31]

A. Nothing. She is taking care of all of those things and calls me when necessary.

Q. It is never necessary, is it?

A. Occasionally she calls me.

Q. You don't know the amount of taxes or how much the water bill is or how much they pay on the trust deed or who pays it or when? It would not be necessary to call on you for anything, Doctor?

A. It shouldn't be.

(Testimony of M. L. Hovey)

Q. In other words, you don't know anything about it?

A. I don't know very much about it.

Q. You did not take much interest in it?

A. Yes, I do now. Mr. Heath is not here to take care of those things and I am quite interested now.

Q. Have you had any conversations with Mrs. Woodd about it recently?

A. No, except that I told her to go ahead and take care of it just the same as previous to the sale.

Q. For that service she gets her living there?

A. She gets her rent.

Q. What is her apartment or the space that she occupies there, do you know?

A. Oh, I don't know exactly but I should judge about \$25.

Q. About \$25 a month? A. Yes. [32]

Q. Do you think it is worth \$25 a month to collect \$70 a month?

A. She takes care of the place and looks after it. There has to be somebody on the place.

Q. Mr. Heath is gone now. This property is in your name. Who is going to make arrangements regarding the management of the property and the disposition of it hereafter?

A. I will have to do that, and Mr. Knapp.

Q. You and Mr. Knapp? A. Yes.

Q. Now, what conversation have you had with Mr. Knapp regarding that property since Mr. Heath's death?

A. I have not had a chance to go down since the day of the funeral to talk to Mr. Knapp. I have talked to him on the telephone a few times and keep promising

(Testimony of M. L. Hovey)

him I will come in to see him, but I have not been in there.

Q. What conversation did you have with him on the telephone regarding the property?

A. I want him to look after Mr. Heath's interest and my interest in there. He was surprised that I felt I had as much interest in it as I do think I have.

Q. In other words, you and Mr. Knapp do not agree on the amount of money you have got coming when this property is sold, is that right?

A. I don't know. I have never talked to him about that.

Q. What do you mean he felt a certain way? [33]

A. Well, he didn't know Mr. Heath ever owed me anything. My arrangements always have been with Mr. Heath and never at any time with Mr. Knapp.

Examination

By the Referee:

Q. That is, that Mr. Heath owed you money?

A. Yes.

Q. That is money you had loaned to him?

A. Yes.

Q. Is that what the thousand dollars or \$1200 is?

A. I was to make out a statement of this. It is in addition to that. But the \$1200 that I figure was due from the first sale that is available.

Q. Mr. Knapp did not know or express surprise when you told him that Mr. Heath owed you \$1200?

A. He did not know he owed me that much.

Q. Why does Mr. Heath owe you \$1200, or did he, at the time of his death?

A. Yes, he did.

(Testimony of M. L. Hovey)

Q. For what?

A. For the sale of a farm I had in Nevada.

Q. Who took the money? A. I used it.

Q. You loaned him the money?

A. I loaned him the money. [34]

Q. Then Mr. Heath owed you \$1200 or \$1,000, which?

A. A thousand dollars, approximately.

Q. Because you loaned him a thousand dollars?

A. I loaned him that, that is right.

Q. And he was to pay it back?

A. And he was to pay it back out of this.

Q. That is why he owed you the thousand dollars?

A. Yes.

The Referee: Any other questions.

Direct Examination Resumed

By Mr. Bowden:

Q. Have you any books, Doctor, showing your business transactions with Mr. Heath?

A. No, I haven't.

Q. You kept no records at all? A. No.

Q. You do keep records, don't you, of your patients and so forth?

A. I keep records of my own professional work.

Q. But you do not keep records of any business in connection with lawsuits?

A. With this legal work, none at all.

Q. Why don't you keep records?

A. Well, I never thought it was necessary. Mr. Heath took care of all that. [35]

Q. How would you determine what Mr. Heath would owe you if you wanted to determine that quickly?

A. I would have to ask him.

Q. If he is not here you wouldn't know, would you?

(Testimony of M. L. Hovey)

A. That is right.

Q. So you don't know if he owes you anything or not?

A. He owes me quite a little because I have drawn no money for a long time and I used to.

Q. You cannot itemize them, can you?

A. No, I don't think so. I don't think I can.

Q. I might have asked you this before, Doctor. It is a little confusing sometimes. I understood you to say recently that they have been sending you the money on this Hobart property?

A. No. The Virginia or the—

Q. Glendale?

A. The Glendale Avenue property.

Q. That is the property.

A. The Glendale Avenue, since the renewal of the lease, comes directly to me because I have to sign at the bank and I am responsible to the bank.

Q. What is the name of the tenant in the Glendale Avenue property?

A. Mrs. Smith, Florence Smith.

Q. Who is she, do you know?

A. I don't know other than she is the tenant, that is [36] all I know.

Q. Is she any relative of Mrs. Woodd?

A. Not that I know of.

Q. Is she any relative of yours? A. No.

Q. And the rental is \$25 a month?

A. No, I believe it is \$35.

Q. Don't you know exactly what it is, Doctor?

A. I was told by Mr. Heath that that property originally rented for \$40. I believe Mrs. Smith is to get the place for \$35 for taking care of the lawn.

(Testimony of M. L. Hovey)

Q. You have been getting the rent there. Don't you know how much rent she has been paying you?

A. Right at this minute I couldn't tell you whether it was thirty or thirty-five.

Q. When did you last get a check?

A. Oh, let's see—

Q. The first of the month?

A. About the first of last month, about the 5th or 6th.

Q. Was that to be for this month?

A. It paid for October or for September.

Q. But not for October? A. No.

Q. You don't remember how much money you got for September?

A. I don't know whether she sent—I believe it was [37] a \$35 check, but I don't remember.

Q. How would you know she is sending you the right amount of rent for it if you don't know? Have you any way of checking that?

A. I would have to go and look it up on the other old rent receipts, that is all.

Q. Have you any lease with this Mrs. Smith?

A. No, that is a month-to-month affair.

Q. How long has she been in the property?

A. She has been there quite a long time. I don't know how long.

Q. A year? A. I don't know.

Q. Three years?

A. It could be for all I know.

Q. Was she in there before you acquired the title?

A. I don't know.

Q. Mrs. Woodd took care of all these details, did she not?

(Testimony of M. L. Hovey)

A. She did all of the running around, she or Mr. Heath, one or the other. Sometimes I believe Mrs. Knapp went out there and got it.

Q. How much money have you collected from Mrs. Smith altogether?

A. I think she sent me only one check.

Q. Only one check? [38]

A. Yes, since the renewal of that mortgage. The mortgage was renewed a few days after her check was mailed and it was mailed to the office, to the law office, and then I had written her a written request to send it to me and she replied that she had already sent it to Mr. Heath's office.

Q. What bank holds the mortgage on the place?

A. Security Bank.

Q. What bank? A. Sixth and Spring.

Q. And the amount is \$770, you say?

A. I don't know about that. I can't tell you exactly. I don't know.

The Referee: Mr. Bowden, let me interrupt for a moment. How long will the examination in the Woodd case take? Do you have other witnesses?

Mr. Bowden: This will take a considerable time, if the Court please.

(Discussion in re continuance omitted. The matter was then continued to October 16, 1945 at 2:00 o'clock, p.m.)

[Endorsed]: Filed Nov. 8, 1945. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Sep. 16, 1946. Edmund L. Smith, Clerk. [39]

[Title of District Court and Cause]

Before the Hon. Hubert F. Laugharn
Referee in Bankruptcy

TRANSCRIPT OF HEARING ON EXAMINATION
OF THE BANKRUPT, HELD ON FRIDAY,
DECEMBER 13, 1946, AT 2:00 P. M.

* * * * *

Appearances:

Leslie S. Bowden, Esq., appearing on behalf of the
Trustee.

A. T. Stewart, Esq., appearing on behalf the Bankrupt.

The Referee: In the Matter of Melanie Douillard
Woodd. What is this, an examination?

Mr. Bowden: This is an examination, if the Court
please. It was on the calendar the other day, but we
were unable to get service.

Mrs. Woodd, will you take the stand, please.

MELANIE DOUILLARD WOODD,

the Bankrupt herein, called as a witness on behalf of the
Trustee, having been first duly sworn, testified as fol-
lows:

Direct Examination

By Mr. Bowden:

Q. Mrs. Woodd, you are the Bankrupt in this pro-
ceeding? A. Yes.

Q. Where do you live now?

A. 5255 Virginia Avenue.

Q. Is that the place you lived at the time you filed
your petition in bankruptcy? A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. You have been living there ever since that time?

A. Yes.

Q. Do you have a telephone there?

A. No, sir.

Q. Who lives with you, Mrs. Woodd? [2]

A. I have my nephew living with me, Louis A. Douillard.

Q. What is his name?

A. Louis. He is the son of Frank Douillard.

Q. How old is he? A. Thirty-five.

Q. What does he do, work?

A. He works at—it is over at Warner Brothers. I am not sure of that. It is at the Sunset Studios in Hollywood, I believe.

Q. Is he regularly employed? A. Yes.

Q. Who owns the property that you live in?

A. I do today.

Q. How long have you owned it?

A. About a month, I think.

Q. About a month?

A. About a month, I think. I haven't received a deed. You know, the deed hasn't come back yet.

Q. Who gave you the deed? A. My nephew.

Q. Do you know where he got it?

A. Yes. He bought the property from Dr. Hovey.

Q. How much did he pay for it?

A. I think he paid \$500 for it.

Q. Do you know how much the property is worth? [3] A. No, I don't.

Q. Have you any idea?

A. No, sir, I haven't.

(Testimony of Melanie Douillard Woodd)

Q. What does the property consist of, generally?

A. A large house with a little house in back.

Q. How large is the house?

A. The front house?

Q. Yes.

A. I would say about seven rooms subdivided.

Q. How large is the rear house?

A. Three rooms.

Q. Do you live in the front house or the rear house?

A. The front house.

Q. Who lives in the rear house?

A. A Jewish lady, Mrs. Sogel.

Q. Does she pay rent? A. Yes.

Q. How much? A. \$20 a month.

Q. Is there anything against the property in the way of a trust deed or anything of that kind?

A. Yes, there is a \$2800 mortgage.

Q. What is the balance on it now?

A. About twenty-three or twenty-four hundred dollars, something like that.

Q. That is payable at \$28 a month? [4]

A. \$30 a month.

Q. \$30? A. \$40, yes.

Q. You formerly owned this property, didn't you?

A. Yes.

Q. Where did you get it in the first instance?

A. Let's see. Well, I sold the Vermont property and took the money from there and bought that. I bought it for \$5000. I paid down \$1000 and at \$40 a month for a while and then I place another thousand and I think later on I placed another thousand. All of this money was out of the balance.

(Testimony of Melanie Douillard Woodd)

Q. Of that estate, Mrs. Woodd?

A. Yes. Would you call it? No, that would be my money. The estate was settled and the Vermont property, my quarter of my share, which would have been \$15,000 came out of that property. I got the property and paid the Douillards almost \$5000. It was \$4700, or something like that.

Q. Your mother's name is Mrs. Donohue?

A. Mrs. Emily Selena Donohue.

Q. Didn't you own this property we are speaking of in joint tenancy with her at one time?

A. No. I owned the 1160 North Hobart, which is the property in litigation right now with Virginia L. Yarbrough,—and Mr. Clements, being the attorney, [5] but I have nothing to do with that. I signed that away as partial payment, the note on that as partial payment, some years ago.

Q. Did you pay your nephew anything for this property?

A. No, sir, I didn't. It was for love and affection.

Q. For love and affection? A. Yes, sir.

Q. You had some Glendale property, didn't you?

A. At one time, yes, sir.

Q. What, if anything, happened to that?

A. That was sold at sheriff's sale and so was the Virginia Avenue sold at Sheriff's sale to Dr. Hovey.

Q. Who owns the Glendale property now?

A. That I don't know, sir.

Q. Has it been sold?

A. Yes, it has been sold.

Q. Did you execute a note and trust deed on that property? A. In Glendale?

(Testimony of Melanie Douillard Woodd)

Q. Yes.

A. No. I have nothing to do with Glendale ever since it was taken away from me.

Q. In August, 1945 didn't you borrow \$780 or something like that on that property?

A. No. That was the balance of the mortgage left there. Mr. Garnier bought that. [6]

Q. Who is Mr. Garnier?

A. He is a real estate man.

Q. Is he a friend of yours?

A. Yes, we are friendly.

Q. How long have you known him?

A. About seven or eight years. He sold all of my pieces of property.

Q. When did he buy the Glendale property?

A. Well, while we were in court here last December, I think. Now then, you will have to see Dr. Hovey about that transaction.

Q. What do you know about it, Mrs. Woodd?

A. Nothing, just that.

Q. How do you know Mr. Garnier bought it?

A. Because Mr. Knapp told me and told my attorney, Mr. Crandall, at the time.

Q. When did Mr. Crandall tell you that?

A. Oh, it has been a long time ago.

Q. Was it during the proceedings?

A. Yes, while we were in court here.

Q. Who was present when Mr. Knapp told you about that? A. Mr. Crandall.

Q. Did anybody else? A. No.

Q. What did Mr. Knapp say to you at that time? [7]

A. He said he sold the property.

(Testimony of Melanie Douillard Woodd)

Q. He said something besides that, didn't he?

A. Oh, I don't know what else.

Q. Did he say how much it was sold for?

A. No, he didn't.

Q. Did he say what he was going to do with the money?

A. No, he didn't.

Q. He just said that he sold the property?

A. That is right, or he was going to sell it or he sold it, I don't know.

Q. What did you say to him?

A. Nothing. What could I say?

Q. What was the occasion of his telling you that?

A. I went up there and he told me.

Q. At that time Mr. Crandall was representing you and not Mr. Knapp?

A. Mr. Crandall.

Q. What was the occasion for Mr. Knapp calling you and Mr. Crandall to his office to tell you about this property?

A. I went up to Mr. Knapp for data to help me about my assets, you know, about how much money,—you know, about helping me with my money. Oh, I can't express myself.

Q. Maybe I can help you, Mrs. Woodd. I see that you might be a little confused. [8]

A. Yes.

Q. You had to get a lot of information together for a hearing in court?

A. That is right.

Q. About what you had done with the money?

A. That is right.

Q. Does that help you?

A. Yes. And the Glendale came in there and the Virginia came in there and the note came in there.

(Testimony of Melanie Douillard Woodd)

Q. So you went up to Mr. Knapp's office to get information?

A. Sure; and he helped me for an hour or so.

Q. Is that the occasion he told you that?

A. Yes.

Q. Why did he say the Glendale property was sold?

A. I can't say. You will have to ask him about that.

Q. Do you know how much Mr. Garner paid for it?

A. No, sir, I don't.

Q. Approximately? A. No, I don't.

Q. You have no idea?

A. No. The bank could tell you that.

Q. Who?

A. Why don't you go down to the bank. They dealt with the Security Bank evidently.

Q. What bank was it, Mrs. Woodd? [9]

A. The Security Bank held the mortgage on it. Let's see what one was that? Sixth and Spring. All of the transactions on the Glendale property were there. You can get that from Mr. Kale. Mr. Garnier sold that property.

Q. They do not seem to know anything about that particular transaction down there. I thought you could give me the information. A. No.

Q. That was where the property was sold to Mr. Garnier? A. Yes, to Mr. Garnier.

Q. Do you know where the escrow was held—that is what I have been trying to locate, the actual escrow—what branch?

A. Mr. Garnier should be able to tell you that. I had nothing to do with that. I didn't deal with that.

(Testimony of Melanie Douillard Woodd)

By the Referee:

Q. You had nothing to do with it and got nothing out of it?

A. That is right, Mr. Laugharn, nothing.

Q. I think we should talk to Mr. Garnier then.

A. Yes, let them talk to him about it.

Q. When did he buy it, do you know?

A. I think last December, sir.

The Referee: Any other questions?

By Mr. Bowden: Q. Take a look at that photo-static copy, [10] Mrs. Woodd. Is that the deed or copy of the deed that your nephew gave to you?

A. No. That is wrong. Where is the Selena Woodd on there?

Q. Take a look at it.

A. Oh, yes. Selena Woodd, that is me, that is right.

Q. Is that one name that you are known by?

A. Well, yes, that is my middle name. I don't want to use the name Douillard any more. It has brought me so much shame, humiliation and sickness that I don't care to use it any more.

Q. So you are using the name of Selena now?

A. I am using the name Selena now. I am using my mother's name.

Q. That is the same property we have been talking about?

A. That is the same property we have been talking about and I am the same person.

Q. That is your nephew's signature?

A. That is right.

Mr. Bowden: I would like to have this marked, if the Court please, on behalf of the creditor, J. M.

(Testimony of Melanie Douillard Woodd)

Clements, for the attorney for the creditor, J. M. Clements.

Q. Now, your nephew is Louis Alfred Douillard?

A. Yes. He is a GI Joe.

Q. You say he bought it in September? [11]

A. Yes, sir.

Q. Would that be approximately the thirteenth of September? A. It might be.

Q. He made a deed to you about the same date that he got the deed? A. A day or two after.

Q. A day or two after? A. Yes.

Mr. Bowden: I have a photostatic copy here, if the Court please.

The Witness: He was afraid he might get killed or might have to go off to war.

Mr. Bowden: (Continuing) Grant deed to M. L. Hovey and Anna L. Hovey to Louis Alfred Douillard, Sr., an unmarried man covering the same property, executed at Glendale in September, 1946. It shows Internal Revenue stamps fifty-five cents cancelled. It was recorded September 13, 1946 in the County Recorder's Office.

Q. Have you had any conversation with anybody about this transaction, Mrs. Woodd? A. No.

Q. Have you had any conversation with your nephew about it? A. About this?

Q. Yes. Have you talked to him about it? [12]

A. Lately, do you mean?

Q. At any time about this transaction where you received this property?

A. When he gave it to me?

Q. Yes, or at any other time?

A. Well, I told him it was going to be sold.

(Testimony of Melanie Douillard Woodd)

Q. When was that?

A. Well, that was—let's see, I saw Mr. Knapp. I went up there while this property was still in Dr. Hovey's name and I went up to tell him there was a large tree going to fall. He became angry and disgusted, I guess, and he said, "Well, I will sell."

Q. When was that?

A. Well now, I can't tell you what that date is.

Q. This year some time?

A. Yes. The tree did fall.

Q. It was in the spring, wasn't it?

A. I guess so.

Q. About March?

A. About March. The tree fell down and instead of falling on me it fell in the street. Then another large tree had to be taken out, an immense tree. It cost my nephew nearly \$100 to take it out. It was leaning at about a forty-five degree angle and he had to take it out.

Q. When did he have to spend \$100 to take the tree out, was that in the spring? [13]

A. He was the owner then. No, that was now, lately, in December, when Douillard was the owner.

By the Referee:

Q. When was the tree taken out?

A. In September, I think, sir. One was taken out and the other one fell.

Q. The other one what?

A. The other one fell. It might be in the spring. I could find that out. I have a receipt for the tree that was taken out, but the one that fell, the City took care of that.

(Testimony of Melanie Douillard Woodd)

Q. Why did your nephew have to pay for taking the tree out?

A. The City wouldn't do it for nothing.

Q. Why did he have to pay for it?

A. Because he was the owner then.

Q. It cost \$100?

A. \$95, I think. They had to have one of the big city trucks—they had to get a special kind to do it.

By Mr. Bowden:

Q. So after Mr. Knapp told you he was going to sell you told your nephew to buy it?

A. Yes. It frightened me. I went home. I was sick. I didn't know where I would move to. He didn't know where he was going to move to. He heard it was for sale and took it upon himself to go down. I had company with me, and [14] he took upon himself and went down to see Dr. Hovey and they had their transaction together.

Now, you will have to ask Dr. Hovey and him what they said and did.

Q. What did your nephew tell you about it?

A. Nothing.

Q. He just went down and bought it?

A. He talked with him. He don't talk much.

Q. Did you go with him? A. No.

Q. Didn't you go up when the deed was made?

A. No.

Q. Where was the deed made?

A. I don't know.

Q. You don't know? A. No.

Q. When did you first see that deed?

A. His deed?

(Testimony of Melanie Douillard Woodd)

Q. The deed to you? A. The deed to me?

Q. Yes.

A. I got nothing to do with that. I don't know where he had the deed made. He brought it to me all signed and he gave it to me.

Q. When was that?

A. About September 13, I think, right around in [15] there.

Q. He told you he had paid \$500 for it?

A. For his transaction with Dr. Hovey. His deed was put, or recorded, sir. He didn't have to give me his deed.

Q. It was recorded—period?

A. That is right. But the \$500 was between him and Dr. Hovey, not between him and me.

Q. That is right, but he told you he paid \$500?

A. That is right and he has got his check.

By the Referee:

Q. Did you talk to Dr. Hovey yourself in connection with the sale? A. No, sir.

Q. Did you ask Mr. Knapp what the property would be sold for?

A. No, sir. I will tell you, Mr. Crandall told me and some friends I have to keep away from Dr. Hovey, that I have nothing to do with him, and there had been so much through this whole mess and so many lies—Dr. Hovey has never done anything for me or promised me anything or I for him. He was for the lawyers or to protect the lawyers. As a lawyer, you will understand that, but he wasn't protecting me.

(Testimony of Melanie Douillard Woodd)

By Mr. Bowden:

Q. Who was protecting you? [16]

A. Nobody.

By the Referee:

Q. When you went into see Mr. Knapp you say he was sort of worried?

A. Yes, because I had named him in this bankruptcy.

Q. Did he tell you how much Mr. Hovey would sell the property for or how much he wanted as a fee?

A. No, sir.

Q. Apparently Mr. Hovey was holding the property as you recall now for Mr. Knapp?

A. He was an assignee.

Q. Holding it for him? A. Yes.

Q. In other words, it was really Mr. Knapp's property, isn't that it?

A. I would imagine so, yes, sir; but the deeds were in Dr. Hovey's name.

Q. Yes, but as I recall the facts, we had a hearing here—I am rather hazy on that—but Dr. Hovey, you might say, was acting as the agent for Mr. Heath and Mr. Knapp?

A. Yes, mostly Mr. Heath, I think.

Q. Did Mr. Knapp approve of the price or Dr. Hovey? A. I don't know.

Q. You don't know about that?

A. That I don't know. [17]

Q. You don't know about that?

A. That I don't know. I would readily tell you if I knew. I would be glad to.

(Testimony of Melanie Douillard Woodd)

Q. If Mr. Knapp was the real owner and it was merely in Dr. Hovey's name, I suppose he would approve the sale? A. The sale?

Q. That is, Dr. Hovey would not want to give it away, would he? A. No.

Q. Without anybody's consent? Do you have any idea how much Mr. Knapp wanted for the property?

A. No.

Q. Then that evening you told your nephew what had taken place?

A. Yes. He was going to sell and I told him.

Q. The next day he went to see Dr. Hovey?

A. He did.

Q. And bought the property while he was there?

A. I don't know if he did it right then and there, but it was right soon in there some way.

Q. At least Dr. Hovey told him he would sell for \$500 subject to the \$2300 balance of the mortgage or whatever it was; he would sell the property to him for \$2800, or whatever it was? A. I guess so. [18]

Q. And he paid his money over to him?

A. He paid his own money, sir.

Q. Did he give a check or pay cash?

A. He gave him a check, sir.

Q. How do you know that?

A. He showed me the check that he had.

Q. He showed it to you before he went in or afterwards? A. Afterwards.

Q. When did he show you the check?

A. Oh, I guess when he came back. You know when you get whatever it is, a statement from the bank?

(Testimony of Melanie Douillard Woodd)

Q. Why did he show it to you, do you know?

A. Why?

Q. Yes.

A. He told me how much he paid out to Dr. Hovey and he put some money in something else, in some kind of a business or something.

Q. Are you to pay him back the \$500?

A. No, sir.

Q. When he came back and told you that he bought the property from Dr. Hovey do you recall what he said?

A. That day he didn't say anything because I had company. I had a lady staying with me. He gets home about half past two. She and I went to Long Beach and different places. She was having a vacation with me which I didn't [19] get to talk with him for maybe several days. He leaves at five o'clock in the morning and I never talk to him in the morning. I know better than to do that. He comes home at half past two. Like today, I am not at home. I might not see him all day today and all night tonight.

Q. Was it the next day he told you that he had bought the property from Dr. Hovey?

A. It might have been.

Q. What else did he say about the deal then?

A. Not much.

Q. He then said he bought the property?

A. Yes. He never told me what their talk was or anything ever.

Q. But he told you how much he paid?

A. Yes, he told me he gave \$500 for it.

(Testimony of Melanie Douillard Woodd)

Q. Then next when did he have a discussion with you about the property?

A. He made a deed to me because he was afraid he might have to go to war or he might die and I would have the home.

Q. When was that?

A. That was just a couple of days after that when he gave me the deed, and we did not talk any more about it because there was nothing more to say.

Q. Did he hand it to you?

A. He handed it to me. [20]

Q. Did you send it to the recorder?

A. I brought it to the recorder, sir. No, before I brought it to the recorder I took it to my lawyer and had him look at it, this gentleman right here, Mr. Stewart. I brought it to him. He said it was all right, for me to go ahead. He wanted to see if it was made right or looked right.

Q. Then it was recorded?

A. Then it was recorded and it hasn't come back yet.

Q. When did you take the tree out?

A. The big tree?

Q. Yes.

A. Well, that is right at the time Louis Douillard was there. He was the owner from September 11 until what? I don't know when I put my deed through. I have forgotten. It looks like he owned it a month or something like that. I really was going to leave it alone and live there until I died and not bother, but the boy's son shot a woman—I have had so much trouble. His son, eleven years old, put a mask on and shot at a woman. They brought him into the Sheriff's Office. That is why

(Testimony of Melanie Douillard Woodd)

I ran to the lawyer. I said, "This is what they have done, and he won't have anything and I won't have anything." So I put it through. Otherwise, I don't think I would have ever bothered.

Q. In other words, you would not have recorded the deed? [21]

A. No, as long as he lived I would have lived there and let him have it.

Q. The son must have shot the woman the day before you recorded the deed?

A. Yes, or a few days before that. The boy said, "Well, a telegram has come for me to go to court." You see, he is the father, but not the legal father, and they have let this little boy run wild.

Q. How old is he?

A. Eleven years old.

Q. You thought that might cause some complications?

A. Sure.

Q. Then you decided—

A. To put it through.

Q. —to take the deed and record it? A. Yes

Q. But you had it approved as to form?

A. That is right.

Q. To make sure it was proper?

A. That is right. And that was the day for me to take my real estate license and I failed on that because the whole thing was too much.

Q. How many days were you holding the deed, do you recall that?

A. Well, I held it from September 13, or whenever he gave it to me in there until—I don't know when I put it [22] through. I don't know.

(Testimony of Melanie Douillard Woodd)

The Referee: Any other questions, Mr. Bowden?

Mr. Bowden: Yes, Your Honor, if you are through.

The Witness: I will tell you, Your Honor. I think this is spite. Those people don't want any money. They are very wealthy, every one of them, because I haven't paid Mr. Clements. That is what I think. They laughed about it. And when there was real difficulty they turned away from Mr. Clements and got another lawyer. But I never did. I stayed with my lawyer and let them take my money.

By the Referee:

Q. Prior to the time when your son bought the property— A. My nephew Your Honor.

Q. Or your nephew, rather,—you were collecting the rent from the lady in the back, weren't you?

A. Yes. And half of the house is rented, you know.

Q. To whom?

A. To Mr. and Mrs. Ferris.

Q. How much does she pay?

A. \$25. And I have always collected the rents there and took them down to Dr. Hovey.

Q. I recall when we had that at the former hearing.

A. And he would give me a check to take to the bank because he has only one leg, you know.

Q. How long have you been doing that? [23]

A. Right along on the Virginia.

Q. This nephew was in the war, was he?

A. Yes, sir.

Q. When did he come back?

A. He has been back about a year. He is very deaf. When he came back there was blood running out of his

(Testimony of Melanie Douillard Woodd)

ears. We had a terrible time with him at first. He is better now.

Q. How long has he been staying with you?

A. Just about a year.

Q. How long has he been working out at the studio?

A. About a year. They took him right off.

Q. What does he do out there?

A. He is sort of a maintenance man and officer or something.

Q. Does he make a couple of hundred dollars a month?

A. I don't know, sir. He never told me. I don't get too personal with him.

Q. Each month you would take down to Dr. Hovey the \$20 rent from the rear and the \$25 for the other half of the house?

A. That is right.

Q. You would take that down?

A. That is right.

Q. And give it to him?

A. Yes. And then he would give me a check to take to [24] the bank the same day I would take them down and go and make the payment.

Q. Does the son of the nephew live with you, also?

A. Oh, no.

Q. Where does he live?

A. In Rosemead. I have never seen the little boy.

Q. You have your own room, that is, your own residence there for taking care of the property for Dr. Hovey?

A. Yes.

Q. Your nephew did not pay any rent?

A. No.

The Referee: Any other questions?

(Testimony of Melanie Douillard Woodd)

By Mr. Bowden:

Q. Mrs. Woodd, this check that Dr. Hovey would give you to pay to the bank, that was to pay the installment on the \$2800 trust deed, is that right?

A. That is right.

Q. That has been paid right along?

A. Yes.

Q. Ever since you first put that on there?

A. That is right.

Q. After they took the property under execution you continued to pay it that way by collecting the rent and giving it to Dr. Hovey?

A. Yes, I acted sort of like an agent. Yes.

Q. Do you know W. W. Robertson? [25]

A. No, sir.

Q. Did you ever hear of him? A. No.

Q. Do you know Mr. Alfred Price McNair?

A. No, sir.

Q. Did you ever hear of him? A. No.

By the Referee:

Q. Why do you suppose Dr. Hovey wanted \$500 for the deed?

A. I don't know, Your Honor.

Q. Do you know how much Mr. Knapp got out of the other property? They took over both of these properties under the Sheriff's deed, didn't they?

A. Yes.

Q. And then they sold one to this real estate agent?

A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. Do you know how much they got out of that one to apply on the business?

A. I don't know, sir. Wouldn't the escrow show that?

Q. I think it would, but I thought Mr. Knapp would probably have told you.

A. Oh, no. I haven't seen Mr. Knapp for a good many months.

Q. How many, would you say?

A. Well,—[26]

Q. Would it be a year?

A. Oh no, I wouldn't say a year.

Q. What does a good many months mean?

A. Three months or so.

Q. Well, that isn't a good many. That is a few.

A. Well, let's see. I don't know when I saw him last.

Q. You saw Mr. Knapp about two days before your nephew went into Dr. Hovey to buy the property, didn't you?

A. Oh, no.

Q. Didn't you?

A. Oh, no. Mr. Knapp told me about going to sell Glendale when we were in court here.

Q. Do you remember you said you went in because of the tree and Mr. Knapp seemed to be angry and he said he was going to sell the property?

A. Oh, yes.

Q. And you told your nephew and he went back to see Dr. Hovey right away?

A. I was sitting in the outer office talking to Mr. Knapp when this happened.

(Testimony of Melanie Douillard Woodd)

Q. How did you know Mr. Knapp wanted to sell the property?

A. He just said, "I am going to sell." That is all he said. And he walked back into his room.

Q. Why didn't you ask him how much he wanted to sell [27] it for?

A. You can't talk to Mr. Knapp when he is bitter and angry.

Q. Then you had an idea the property could be bought so you told your nephew to go in to see Dr. Hovey?

A. No, I didn't have an idea it could be bought. I just talked about what he said he was going to do and the boy evidently just took it upon himself, as long as it was going to be sold, I guess anybody could have done it.

Q. I was wondering why he didn't go in to see Mr. Knapp because Mr. Knapp was the real owner?

A. I don't know.

Q. Dr. Hovey wouldn't do anything without Mr Knapp's consent because he really held the property for Mr. Knapp, didn't he? A. He did.

Q. So I don't believe he would sell Mr. Knapp's property without asking Mr. Knapp if it was all right. It doesn't sound logical.

A. You will have to ask Dr. Hovey about that.

Q. Yes.

A. You will have to ask him about that. The deed was in the name of Dr. Hovey.

Q. Yes, I know it was.

A. So how could it be Mr. Knapp's property?

(Testimony of Melanie Douillard Woodd)

Q. A few minutes ago we said Dr. Hovey was holding [28] it for Mr. Knapp, so why wouldn't he get in touch with Mr. Knapp if he was going to sell it?

A. Maybe he did.

Q. Why do you suppose he sold it for only \$500?

A. I don't know that, sir. I wouldn't know.

Q. Do you think Mr. Knapp told him or advised him to sell for that, or do you know anything about it?

A. I don't know, Your Honor. I don't know.

Q. What is your opinion of the value of the property? A. I don't know.

Q. Is it worth \$10,000? A. I don't know.

The Referee: Any other questions?

By Mr. Bowden:

Q. Mrs. Woodd, you remember talking to Mr. Perkins, a real estate man, out at your home last November?

A. This last November?

Q. Yes.

A. I don't know. Real estate men have been coming up around there asking if the place was for sale and things like that.

Q. Do you remember Mr. Perkins coming and asking if it was for sale and if you owned it and you said you did own it for a long time, that you got it from your mother and you wanted \$30,000 for it?

A. No. [29]

Q. You don't remember that conversation?

A. No, I don't remember that.

Q. Did you have a conversation like that with any real estate man in November?

A. No, I don't think so.

(Testimony of Melanie Douillard Woodd)

Q. Did you ever tell anybody it was worth \$30,000?

A. No.

Q. What is it worth?

A. I don't know what it is worth, sir. I would have to have it appraised. Real estate people come up to the door almost every day.

Q. How long has the \$2800 loan been on the property? What was the date of it, do you remember?

A. I don't know.

Q. Well, you borrowed the money on it, didn't you?

A. What?

Q. You borrowed the money on it, the original \$2800, didn't you?

A. Wasn't it more than that years ago? I don't know.

Q. I don't know. I am asking you, Mrs. Woodd. When did you make that loan first? Can you tell us that, approximately, regardless of how much it was?

A. Let's see, now. I bought it for \$5000 and I paid two or three thousand dollars in installments somehow. Then when Dr. Hovey took it over I think he bought it for—at the Sheriff's sale, for \$1775, or something like that. [30]

Q. No, Mrs. Woodd, what I am asking is this—

A. I am trying to get to where this mortgage is. There is another mortgage that I had nothing to do with.

(Testimony of Melanie Douillard Woodd)

Q. You did not? A. Evidently not.

Q. Who put that on?

A. I think Dr. Hovey on the stand said he put on another mortgage.

Q. What was the amount of the mortgage when Dr. Hovey took over?

A. \$1775, I think.

Q. That is where you had paid down to that?

A. Yes.

Q. That original mortgage was how much then, about \$5000? A. No, about \$2000.

Q. Originally, it was about \$2000?

A. First it was \$4000 and then it was amortized.

Q. That is what I am after. A. Yes.

Q. Originally it was \$4000? A. That is right.

Q. Then you paid it down to \$1750 and Dr. Hovey put another mortgage on for \$2800, is that correct?

A. That is correct.

Q. And that \$1750 was paid at that time when Dr. Hovey [31] put the \$2800 mortgage on it? In other words, there are not two mortgages on it now, are there?

A. There is only one mortgage on it now, but how it was done I don't know.

Q. You are paying that now, are you?

A. I am paying that, yes, sir. He bought that—
oh—

(Testimony of Melanie Douillard Woodd)

Q. You have had no conversation of any kind or character with Mr. Knapp about this transaction?

A. This one here?

Q. Yes. A. No.

Q. Where you got the deed from your nephew?

A. Not at all. You just bring him in here and he will be very much surprised. He hasn't seen me and doesn't know a thing about it, absolutely.

Q. Is your nephew coming to court Monday morning?
A. Yes.

Q. He will be here? A. He will, sir.

Mr. Bowden: That is all.

The Referee: Should Mrs. Woodd return at that time?

Mr. Bowden: I think so, if she can.

The Referee: Is her presence required, that is the thing? Do you mind coming back on Monday?

The Witness: If you want me. [32]

The Referee: When your nephew is here.

The Witness: I will if you want me to.

The Referee: I am not sure that your presence is necessary. It seems to me with your nephew here it might be a good idea for you to be here also and clear up these matters.

The Witness: I will do that.

Mr. Bowden: If the Court please, may the witness be notified that the restraining order is still in force and effect, restraining her, the restraining order that was served on her?

The Referee: Whatever the situation is in connection with the restraining order it is to remain in effect until this is dismissed or until we go further into this matter or at least until the continued hearing.

The Witness: Thank you.

The Referee: The property is in your name.

The Witness: My name.

The Referee: And you intend to keep it in your name?

The Witness: I would like to.

The Referee: Well, you do not intend to transfer it to anybody else? The Witness: No sir.

The Referee: Or give it away?

The Witness: No, sir.

The Referee: Well, that is the effect of the order: It [33] remains as it is.

(Which was all the evidence offered and received at the time aforesaid.)

[Endorsed]: Filed Feb. 14, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith, Clerk. [34]

[Title of District Court and Cause]

Before Honorable Hubert F. Laugharn
Referee in Bankruptcy

REPORTER'S TRANSCRIPT OF HEARINGS
HELD IN THE ABOVE-ENTITLED CASE ON
MARCH 28, APRIL 5, DECEMBER 12, DECEMBER
16, AND DECEMBER 23, 1946; AND
JANUARY 20 AND 23, 1947.

Appearances:

Leslie S. Bowden, Esq., 505 Fidelity Building, MI-1371,
Los Angeles, California, Attorney for the Receiver,
George T. Goggin.

Clements & Austin, 306 L. A. Stock Exch. Bldg., MA-
2565, Los Angeles, California, Attorney for the Douil-
lards, Creditors.

Daniel A. Knapp, Esq., 424 Black Building, MU-5922,
Los Angeles, California, Attorney for Edna D. Heath,
Administratrix of the Estate of Fred W. Heath.

Earl F. Crandell, Esq., 304 South Broadway, VA-3445,
Los Angeles, California, and

Stewart & Stewart, by Arthur T. Stewart, Esq., VA-
1613, 304 South Broadway, Los Angeles, California, At-
torneys for the Bankrupt.

E. S. Rhode, Esq., 178 North Mariposa Avenue, FE-
7603, Los Angeles, California, Attorney for A. P.
Garnier. [1]

Melanie Douillard Woodd March 28, 1946.

The Referee: Melanie Douillard Woodd.

Mr. Bowden: Ready. Mrs. Woodd, will you take the
stand, please?

MELANIE DOUILLARD WOODD,

having been first duly sworn, on oath testified as follows:

Direct Examination

By Mr. Bowden:

Q. You are the bankrupt in this proceeding?

A. Yes, sir.

Q. Now, Mrs. Woodd, did you inherit something or some property from your mother's estate?

A. Yes, sir.

Q. How long ago was that?

A. 1938, or rather 1937; the estate was settled in 1938.

Q. The estate was settled the 27th of September, 1938?

A. Yes, sir.

Q. How much did you receive from that estate?

A. I received one-fourth of all of her property.

Q. Do you know what the value was?

A. Yes, sir, I think my share came to \$10,000 and something. [2]

Q. Was that in money or property?

A. That was in property.

Q. How much administratrix's fees did you receive from that estate?

A. It says here \$880.

Q. What are you reading from?

A. I have a memorandum here.

Q. Where did you get it?

A. Mr. Knapp helped me with it.

Q. Was it prepared for the purpose of this hearing?

A. Yes, sir.

Q. Have you any independent recollection of these matters?

A. Some of them I have but not all.

(Testimony of Melanie Douillard Woodd)

The Referee: That would be quite simple, the answer is as to the administratrix fee. Is there any question about it? If her counsel prepared it I think we could depend upon it unless there is some controversy and then we will check it with the original.

Mr. Browden: Q. The administratrix fees were \$1,569, were they not? A. I don't remember.

Q. If that is what the file shows would that be correct? A. That would be correct.

The Referee: Let's settle that. You have a note here [3] that your fees were \$800?

A. Yes, sir. I said to Mr. Knapp \$1,500 and I think that he presumed that was \$800 for me and \$800 for Mr. Heath.

Q. You read the item you refer to. What does it say?

A. It says \$880, executrix commission.

Mr. Bowden: I have the file here.

The Witness: You see that is on \$70,000. Do you know how to account for that?

Mr. Bowden: Q. Is Mr. Knapp's associate here?

A. No, he is dead. Mr. Knapp is here.

Mr. Knapp: Your Honor, I was one of the attorneys in the estate matter and I was subpoenaed here this afternoon.

The Referee: Q. What were these fees?

A. I thought they were \$1,500 on all of it, but Mr. Knapp thought I must be wrong.

The Referee: Well, the file usually shows.

Mr. Bowden: The file is here. I have it. It is \$1,569.

The Referee: We will take that amount as correct as having been received. It may be corrected if there is any reason.

(Testimony of Melanie Douillard Woodd)

Mr. Bowden: Q. Now, Mrs. Woodd, didn't you receive from your mother's property and estate money and property of the value of \$23,691.49? [4]

A. I received my share, it is down on the books, ten thousand and something, and then I received a legacy of \$10,000; then I had to pay—

The Referee: Let's go back on this. How extensive is the decree of distribution?

Mr. Bowden: The decree of distribution is something—I don't know whether anyone understands it correctly or not and furthermore, after the decree of distribution was made, apparently the heirs got together and divided it back and forth among themselves. My questions are leading to the total value of everything she received from her mother's estate.

The Referee: Do you mean from the estate under the court order or some subsequent adjustment?

Mr. Bowden: I don't know.

The Referee: Why don't you show what the court order shows?

Mr. Bowden: The court order shows she will get one-fourth of the estate but that does not fix the value of the estate, plus \$10,000. My starting point is what was the value of the money and the property she received from her mother's estate, whether it was by decree of the court or by mutual conveyances from any of the heirs, what she did receive.

The Referee: Then we will have to go back and see what she did receive. [5]

Mr. Bowden: I have here an order fixing her inheritance tax, the entry is \$23,691.49. She has just testified she received one-fourth of the estate and \$10,000. I want to ask her if this figure is not correct.